

***United States Court of Appeals  
for the Second Circuit***



**APPELLEE'S  
APPENDIX**





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74-2412

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Page

By mail

IN THE  
**United States Court of Appeals**  
FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA,

*Appellee,*

vs.

KENNETH EUGENE OLIVER,

*Appellant.*

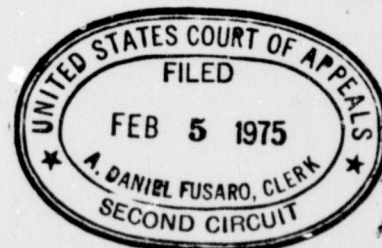
APPEAL FROM THE JUDGMENT OF CONVICTION IN THE UNITED  
STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF  
NEW YORK, HONORABLE JOHN T. CURTIN,  
DISTRICT JUDGE.

**APPENDIX FOR APPELLEE**

RICHARD J. ARCARA,  
United States Attorney,  
Western District of New York,  
*Attorney for Appellee,*  
502 United States Courthouse,  
Buffalo, New York 14202.

THEODORE J. BURNS,  
Assistant United States Attorney,  
*of Counsel.*

BATAVIA TIMES, APPELLATE COURT PRINTERS  
A. GERALD KLEPS, REPRESENTATIVE  
BATAVIA, N. Y. 14020  
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Plan for Achieving Prompt Disposition  
of Criminal Cases.

PLAN FOR ACHIEVING PROMPT  
DISPOSITION OF CRIMINAL CASES  
(Approved February 20, 1973;  
Effective April 1, 1973)

Pursuant to the requirement of Rule 50(b) of the Federal Rules of Criminal Procedure effective October 1, 1972, the judges of the United States District Court for the Western District of New York have adopted the following plan to minimize undue delay and to further the prompt disposition of criminal cases:

1. Priorities in Scheduling Criminal Cases.

Insofar as is practicable:

- (a) the trial of criminal cases shall be given preference over civil cases, as provided by Rule 50(a) Federal Rules of Criminal Procedure; and
- (b) the trial of defendants in custody and defendants whose pre-trial liberty is reasonably believed to present unusual risks should be given preference over other criminal cases. As used in this plan, "custody" means custody on the federal charge contained in the pertinent complaint, information, or indictment.

2. Review of Defendants in Custody and Delinquent Cases.

- (a) The United States Attorney and the United States Marshal of this District shall submit to the Chief Judge of the Circuit and the Chief Judge of the District Court reports of defendants in custody and delinquent cases as prescribed by the Circuit Executive, with approval of the Chief Judge of the Circuit. Copies shall be furnished each District Court Judge and the Circuit Executive.
- (b) At not more than six-month intervals the judges of the court, or a committee thereof, shall review the status of all persons

Plan for Achieving Prompt Disposition  
of Criminal Cases.

in custody and all cases in which the maximum time limits set forth in Rules 3 and 4 have been exceeded. Cases shall be reassigned as appropriate in order to carry out the purposes of this plan. The United States Attorney shall be informed of any case in which his office appears to be responsible for unnecessary delay.

3. Detained Defendants: Trial Readiness and Effect of Non-Compliance.

In cases where a defendant is detained, the government must be ready for trial within ninety days from the date of detention. If the government is not ready for trial within such time, and if the defendant is charged only with non-capital offenses, the defendant shall be released upon bond or his own recognizance or upon such other conditions as the District Court may determine, unless there is a showing of exceptional circumstances justifying the continued detention of the defendant, and then the detention shall continue only for so long as is necessary. This shall not apply to any defendant who is serving a term of imprisonment for another offense, nor to any defendant who, subsequent to release under this rule, has been charged with another crime or has violated the conditions of his release.

4. All Cases: Trial Readiness and Effect of Non-Compliance.

In all cases the government must be ready for trial within six months from the date of the arrest, service of summons, detention, or the filing of a complaint or of a formal charge upon which the defendant is to be tried (other than a sealed indictment), whichever is earliest. If the government is not ready for trial within such time, and if the defendant is charged only with non-capital offenses, the defendant may move in writing, on at least ten days' notice to the government, for



Plan for Achieving Prompt Disposition  
of Criminal Cases.

dismissal of the indictment. Any such motion shall be decided with utmost promptness. If it should appear that sufficient grounds existed for tolling any portion of the six-months period under one or more of the exceptions in Rule 5, the motion shall be denied, whether or not the government has previously requested a continuance. Otherwise the court shall enter an order dismissing the indictment with prejudice unless the court finds that the government's neglect is excusable, in which event the dismissal shall not be effective if the government is ready to proceed to trial within ten days.

5. Excluded Periods.

In computing the time within which the government should be ready for trial under Rules 3 and 4, the following periods should be excluded:

- (a) The period of delay while proceedings concerning the defendant are pending, including but not limited to proceedings for the determination of competency and the period during which he is incompetent to stand trial, pre-trial motions, interlocutory appeals, trial of other charges, and the period during which such matters are sub judice.
- (b) Periods of delay resulting from a continuance granted by the District Court at the request of, or with the consent of, the defendant or his counsel, in writing or stated upon the record. The District Court shall grant such a continuance only if it is satisfied that postponement is in the interest of justice, taking into account the public interest in the prompt disposition of criminal charges. A defendant without counsel should not be deemed to have consented to a continuance unless he has been



Plan for Achieving Prompt Disposition  
of Criminal Cases.

advised by the court of his rights under these rules and the effect of his consent.

(c) The period of time during which:

(i) evidence material to the government's case is unavailable, when the prosecuting attorney has exercised due diligence to obtain such evidence and there are reasonable grounds to believe that such evidence will become available within a reasonable period; or

(ii) the prosecuting attorney is actively preparing the government's case for trial and additional time is justified by exceptional circumstances of the case.

(d) The period of delay resulting from the absence or unavailability of the defendant. A defendant should be considered absent whenever his location is unknown. A defendant should be considered unavailable whenever his location is known but his presence for trial cannot be obtained by due diligence.

(e) A reasonable period of delay when the defendant is joined for trial with a codefendant as to whom the time for trial has not run and there is good cause for not granting a severance. In all other cases the defendant should be granted a severance so that he may be tried within the time limits applicable to his case.

(f) The period of delay resulting from detention of the defendant in another jurisdiction provided the prosecuting attorney has been diligent and has made reasonable efforts to obtain the presence of the defendant for trial.

(g) The period during which the defendant is without counsel for reasons other than the failure of the court to provide counsel

Plan for Achieving Prompt Disposition  
of Criminal Cases.

for an indigent defendant or the insistence of the defendant on proceeding without counsel.

(h) Other period of delay occasioned by exceptional circumstances.

6. Retrials.

Where a new trial has been ordered by the District Court or a trial or new trial has been ordered by an appellate court, it shall commence at the earliest practicable time, but in any event not later than 90 days after the finality of such order unless extended for good cause.

7. Demand and Waiver Provisions.

A demand by a defendant is not necessary for the purpose of invoking the rights conferred by these rules. However, failure of a defendant to move for discharge prior to plea of guilty or trial shall constitute waiver of such rights. The preceding sentence shall not apply to a defendant without counsel unless he has notice of these rules.

8. Procedures Intended to Facilitate Prompt Disposition of Cases.

(a) Pre-trial conferences pursuant to Rule 17.1, Federal Rules of Criminal Procedure, shall be conducted as soon after the arraignment as possible, consistent with the priorities of other matters on the court's criminal docket.

(b) The court or magistrate at the time of arraignment or at the time of any proceeding preliminary to arraignment shall promptly appoint counsel where appropriate under the Criminal Justice Act and Rule 44 of the Federal Rules of Criminal Procedure. If a defendant appears for arraignment without counsel his arraignment may be postponed not more than one week, except for good cause shown, to permit him to obtain or to consult with counsel. When appropriate the.



Plan for Achieving Prompt Disposition  
of Criminal Cases.

court may cause a plea of not guilty to be entered for the defendant. The court shall take adequate steps to ensure that defendants are represented by counsel.

- (c) A trial date shall be set at the time of pre-trial conference or at the earliest practicable time thereafter.
- (d) If the defendant and his counsel consent thereto, a presentence investigation may be commenced prior to a plea of guilty or nolo contendere or a conviction.
- (e) A defendant shall ordinarily be sentenced within 45 days of the date of his conviction or plea of guilty or nolo contendere. This specific period, however, may be varied in accordance with the presentence report practices and procedures in this District.

9. Responsibility of United States Attorney and Defense Counsel.

- (a) The court has sole responsibility for setting and calling cases for trial. Neither a conflict in schedules of Assistant United States Attorneys nor a conflict in schedules of defense counsel will be ground for a continuance or delayed setting except under unusual circumstances approved by the court and called to the court's attention at the earliest practicable time. Each judge will schedule criminal trials at such times as may be necessary to assure prompt disposition of criminal cases. The United States Attorney will familiarize himself with scheduling procedures of each judge and will assign or reassign cases in such manner that the government will be able to announce ready for trial.
- (b) If the United States Attorney knows that a person charged with a criminal offense is serving a term of imprisonment in a federal, state, or other institution or that of another jurisdiction, it is

Plan for Achieving Prompt Disposition  
of Criminal Cases.

his duty promptly:

- (i) to undertake to obtain the presence of the prisoner for plea and trial; or
- (ii) when the government is unable to obtain the presence of the defendant, to cause a detainer to be filed with the official having custody of the prisoner and request him to advise the prisoner of the detainer and to inform the prisoner of his rights under the Federal Rules of Criminal Procedure and this plan.

10. Effective Date of Plan.

This plan shall become effective upon approval of the reviewing panel designated in accordance with Rule 50(b) Federal Rules of Criminal Procedure.



## Affidavit of Richard L. Delonis.

A F F I D A V I T

STATE OF MICHIGAN )  
 ) SS  
 COUNTY OF WAYNE )

COMPLAINT # 72-2238

RICHARD L. DELONIS, being duly sworn, deposes and says that he is an Assistant United States Attorney for the Eastern District of Michigan;

That on July 13, 1972, I was contacted by Agents of the Federal Bureau of Investigation who advised me that they had arrested one Kenneth Oliver who was wanted on bank robbery charges in the Western District of New York. Mr. Oliver, his retained counsel Mr. Donald Cutler, and I appeared before United States Magistrate Paul J. Komives on that same date and, at that hearing, the Court set Mr. Oliver's bail at \$30,000.00 with provision for his release upon deposit of 10% of that amount. A removal hearing was scheduled for July 21, 1972.

Mr. Oliver's bail was posted with the Clerk of the Court on July 14, 1972, the day after his appearance before the Magistrate. In subsequent discussions between counsel, Mr. Cutler indicated that Oliver was amenable to the disposition of the bank robbery charges in this District under the provisions of Rule 20 of the Federal Rules of Criminal Procedure. Mr. Cutler also advised that his client possessed a willingness and ability to be of material assistance to the Government in its investigation of narcotics trafficking. He offered the defendant's services in that regard and concurrently requested that proceedings in this District be delayed so that Mr. Oliver would have an adequate opportunity to work with narcotics agents.

The defendant contemplated the ultimate entry of a Rule 20 plea, but not until he would be able to apprise the sentencing Judge that he had been cooperating with Federal authorities in narcotic investigations. I acceded to this arrangement and Mr. Oliver subsequently came into contact with members of the Office of Drug Abuse Law Enforcement (DALE).

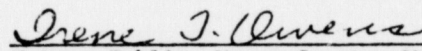
## Affidavit of Richard L. Delonis.

On October 10, 1972 I received a letter of inquiry from Mr. Oliver's counsel in which he requested verification of his client's assistance to Federal Agents. A copy of that letter is attached hereto.

Shortly thereafter, Mr. Oliver became involved in a bank robbery-murder case in the Western District of Michigan and, on October 20, 1972 upon my Motion in behalf of the Government, the United States Magistrate entered an Order dismissing the removal proceedings which had been initiated in our District. A copy of that Order is attached hereto.

  
RICHARD L. DELONIS

Subscribed and sworn to before me this 27th day of August, 1973, at  
Detroit, Michigan.

  
Notary Public, Wayne County, Michigan

My Commission Expires: June 1, 1975



Affidavit of Richard L. Delonis.

C1972-281



Form AO 104

 UNITED STATES MAGISTRATE  
Eastern DISTRICT OF Michigan

## RECORD OF PROCEEDINGS—MISCELLANEOUS

 BEFORE Hon. Paul J. Komives  
(Name of Magistrate)
Federal Bldg., Det., Mich.  
(Address)

This form should be used to record proceedings for which Forms AO 100 and AO 101 are not adapted, such as applications for search warrants, extradition proceedings, depositions in civil cases, proceedings for the release of poor convicts, references in civil or admiralty cases, attachments and subsequent hearings in internal revenue matters, proceedings to settle or certify nonpayment of seamen's wages, civil rights proceedings, detentions of witnesses on removal proceedings in connection with criminal proceedings, if not included in Form AO 100, etc. A separate page should be used for each proceeding, showing the title of the case, its nature, and the date and nature of each step taken.

 Magistrate's  
 Docket No. 72-650M, Case No. \_\_\_\_\_  
U. S.  
vs.  
Kenneth Oliver
Removal Proceedings(Nature of proceeding)

DATE	ACTION
7/13/72	Def. app. on warr. out of another district (W.D. New York); rep. by counsel, Donald Cutler; r/h set for July 21, 1972 at 9:30 A.M.; bond set at \$30,000 w/10% prov.; def. rem.
7/18/72	Advised by Mr. Cutler's office that def. has posted his bond; an adj. date of August 2, 1972 has now been agreed upon for the r/h date.
7/31/72	Advised by Mr. Bradfield that the rem. hearing is adj. by agreement w/counsel to Aug. 29, 1972 at 9:30 A.M.; case is expected to go by way of a Rule 20.
8/28/72	Advised by AUSA Delonis that it is agreeable w/def. counsel to adj. rem. hearing until 9/29/72 at 9:30 A.M.
9/29/72	Advised by Mr. Delonis that he and def. counsel req. adj. until 10/30/72 for rem. hearing; court grants adjournment.

(over)

## Affidavit of Richard L. Delonis.

DATE	
10/20/72	Mot. and Order Dismissing Proceedings & Cancelling Bond filed.
10/26/72	Order for return of bond deposit in \$3,000.00 to Linda Oliver, Check No.
	1362, filed and entered. Thornton, J

U. S. District Court } ss  
 Eastern District of Mich. }

I hereby certify that the foregoing is  
 a true copy of the original on file in this  
 court and cause.

HENRY R. HANSEN, Clerk

Dated:

By

Deputy Clerk

10/21/72

Certified to be a correct transcript of Docket Entries.

Dated October 20, 1972

Paul J. Komer  
 United States Magistrate



Affidavit of Richard L. Delonis.

JAMES R. TEMPLE  
DONALD M. CUTLER  
DONALD M. BLUE  
JOHN J. TEMPLE  
OF COUNSEL

TEMPLE AND CUTLER  
ATTORNEYS AND COUNSELORS  
16000 WEST NINE MILE ROAD  
SOUTHFIELD, MICHIGAN 48075

AREA CODE 313  
TELEPHONES (353-4480  
(353-4481

October 10, 1972

Richard L. Delonis, Esq.  
317 Federal Building  
Detroit, Michigan 48226

Re: Kenneth Oliver

Dear Mr. Delonis:

When you have an opportunity would you verify with the agents of the bureau that my client is assisting them in their endeavors.

Then, would you contact this office, that we might try to resolve this matter.

Very truly yours,

TEMPLE & CUTLER

Donald M. Cutler

DNC:tc

**Affidavit of Richard L. Delonis.**  
 UNITED STATES DISTRICT COURT  
 EASTERN DISTRICT OF MICHIGAN  
 SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

Magistrate's No. 72-650-M

KENNETH OLIVER,

(Complaint # 72-2238)

Defendant.

MOTION AND ORDER DISMISSING PROCEEDINGS & CANCELLING BOND

Now comes the United States of America by Ralph B. Guy, Jr., United States Attorney, and Richard L. Delonis, Assistant United States Attorney, for the Eastern District of Michigan, Southern Division, and respectfully says as follows:

That on July 13, 1972, the defendant appeared before this Court upon a Complaint and Warrant issued in the Western District of New York charging him with bank robbery. Bail was set in the amount of \$30,000.00 cash/surety, with the provision for the defendant's release upon the deposit of 10% of that sum with the Clerk of the Court.

That the United States Attorney has been advised that the defendant is currently incarcerated in the Western District of Michigan where he is being charged in both the United States District Court and in the Courts for the State of Michigan, for the offenses of bank robbery and murder.

That in view of the foregoing, removal proceedings will not be held in this district but may be held in the Western District of Michigan, wherein the defendant is incarcerated.

WHEREFORE, THE UNITED STATES OF AMERICA, now moves that this Court enter an Order dismissing the proceedings in this cause and cancelling the bond set therein.

RALPH B. GUY, JR.  
 UNITED STATES ATTORNEY

*Richard L. Delonis*

RICHARD L. DELONIS  
 ASSISTANT UNITED STATES ATTORNEY

IT IS SO ORDERED:

UNITED STATES MAGISTRATE

DATED: October 20, 1972

A TRUE COPY

PAUL J. [unclear]  
 [unclear]

*Audrey L. Allen*



## Affidavit of Orrin C. Jones.

STATE OF MICHIGAN )  
 ) S.S.  
 COUNTY OF WAYNE )

Orrin C. Jones, being duly sworn, deposes and says that he is an Assistant United States Attorney for the Eastern District of Michigan; and that since April 1, 1972 he has been on special assignment as Special Attorney in Charge of the Drug Abuse Law Enforcement office in Detroit, Michigan;

That at Detroit on he was first contacted by one Kenneth Oliver on or about August 24, 1972, who said he had been referred by Richard Delonis, an Assistant United States Attorney to our office; further inquiry disclosed said Oliver was charged with bank robbery in the Western District of New York and he was seeking to transfer the case to Detroit for the purposes of a plea; he admitted the foregoing and was seeking ways to assist the government to lessen his punishment; he stated he had information relating to importation of drugs from Canada and information as to thefts of drugs from a suburban hospital.

Deponent arranged a meeting with Mr. Raymond McKinnon, the Chief Investigator for DALE in Detroit and Oliver enlarged on his claim of access to information but without specific details. Mr. McKinnon told him to get some tangible evidence and then recontact us.

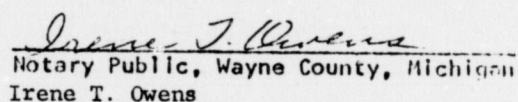
My notes show he called me on September 15, 1972 and my recollection is that he called me once or twice before that date; each call was to give evidence that he was "working" on the matter, but contained only nebulous information; he once referred to a shooting he had witnessed on Philadelphia Avenue, and I told him he should go to the police as he claimed to have a description of one of the men.

## Affidavit of Orrin C. Jones.

My last contact was October 6, 1972 when he called and again gave incomplete and hazy information that amounted to nothing. I told him to follow up and contact me when he got something tangible. That was the last contact and shortly after I heard of his arrest in Western Michigan and the shooting of the State Trooper.

  
ORRIN C. JONES

Subscribed and sworn to before me this 24th day of August, 1973  
at Detroit, Michigan

  
Notary Public, Wayne County, Michigan  
Irene T. Owens

My Commission expires: June 1, 1975



## Affidavit of Frank Stadler Spies.

UNITED STATES OF AMERICA  
 IN THE UNITED STATES DISTRICT COURT  
 FOR THE WESTERN DISTRICT OF NEW YORK

-----

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
-v-	)	No. 1973 269 Criminal
	)	
KENNETH EUGENE OLIVER,	)	
	)	
Defendant.	)	<u>A F F I D A V I T</u>
	)	

-----

My name is Frank Stadler Spies and I am, and have been since October 1969, an Assistant United States Attorney for the Western District of Michigan.

On October 13, 1972, I was contacted by Special Agent Andrew J. Maseyko of the Federal Bureau of Investigation about a bank robbery of the First National Bank of Southwestern Michigan of Niles, Michigan, and was told by SA Maseyko that the bank robber had killed a Michigan State Police Trooper in making his escape. I approved application for a complaint and warrant by the FBI to United States Magistrate Stephen W. Karr. Magistrate Karr issued a warrant October 13, 1972 (Exhibit A). I learned that day that the accused bank robber Kenneth Eugene Oliver, was charged with a robbery in Buffalo, New York, where he had used the same modus operandi, that he had apparently confessed to the FBI in Detroit, and that he had been released on bond.

When I learned that the State of Michigan had charged Oliver with murder and armed robbery and a preliminary examination was scheduled for the day after our preliminary examination, October 24, 1972, I wrote a letter dated October 18, 1972, to Magistrate Karr asking him to dismiss our process.

## Affidavit of Frank Stadler Spies.

On November 15, 1972, I wrote a letter to the FBI Office in Detroit asking the Supervisor of the Bank Robbery Squad to keep me informed of the progress of the Buffalo, New York case as the result of the State of Michigan's case and that case could affect whether we presented the Oliver case to the Grand Jury.

By December 8, 1972, I had discussed the New York case with Philip B. Abramowitz, Assistant United States Attorney for the Western District of New York and on that date I received his letter with a form USA-18, Rule 20 Transfer form. (Exhibit B)

I contacted the FBI agent in charge of the case and learned the name of the court-appointed attorney for Oliver. In a telephone conversation with James K. Jesse of Buchanan, Michigan, I asked whether Oliver wanted to plead pursuant to Rule 20 to the New York Federal case. Jesse agreed to talk to Oliver about such a plea (Exhibits C & D).

At this time there was still some question whether Oliver would plead guilty to the State of Michigan's murder/armed robbery charges since he had confessed when he was arrested. The Prosecuting Attorney of Berrien County, Michigan, Ronald J. Taylor and his Assistant John A. Smietanka discussed the progress of the case with me a number of times both on the telephone and at my office. I learned Oliver was contemplating an insanity defense and was to be examined at Ypsilanti, Michigan. I was warned that Oliver was contemplating an escape, and that there were rumors that he was hoping for the trip to Buffalo so he could arrange with confederates to rescue him from the Marshals transporting him. I learned that Attorney Jesse had been discharged from the case after he tried to smuggle letters out of the Berrien County jail for Oliver. The letters, which dealt with where Oliver had hid the proceeds of the Niles bank robbery,



## Affidavit of Frank Stadler Spies.

and possibly plans to get assistance for an escape, were seized by the Berrien County Sheriff. This office never heard from Oliver's replacement attorney.

In my discussions with Assistant United States Attorney Abramowitz, we considered whether removal under Rule 20 of the Federal Rules of Criminal Procedure was the proper remedy or whether a writ of habeas corpus ad prosequendum was, and finally settled upon the latter.

Then I learned that Oliver was convicted in Berrien County Circuit Court of first-degree murder, felony murder and armed robbery in June 1973, and reported that to the United States Attorney's Office for the Western District of New York on June 18, 1973. I reported Oliver's sentence by telephone on July 2, 1973, and urged Mr. Arcara to go forward with the prosecution. In June 1973 I declined prosecution against Kenneth Eugene Oliver for the Niles Michigan bank robbery because of the Department of Justice's "dual prosecution" policy and declined prosecution against Oliver for a bank robbery of the Central Bank in Grand Rapids, Michigan, on May 19, 1971, because the only witness who could conclusively tie him to that robbery was his then wife.

s/ FRANK S. SPIES

FRANK S. SPIES  
Assistant United States Attorney

STATE OF MICHIGAN     )  
                              )  
COUNTY OF KENT        )     ss.

Sworn to before me, a Notary Public, this 7th day of August, 1973.

s/ GORDON E. LARINK

Notary Public, Kent County, Mich.  
My commission expires: 4-12-77

## Affidavit of Frank Stadler Spies.

United States Department of Justice

ADDRESS REPLY TO  
UNITED STATES ATTORNEY  
ATTENTION OF  
ASSISTANT SHOWN BELOW

Philip B. Abramowitz

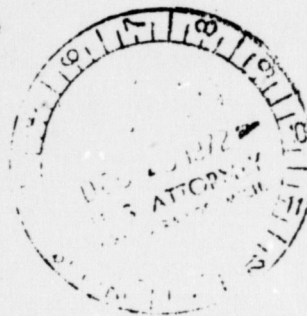
OUR REFERENCE

PBA:gmc  
CR 1972-281

## UNITED STATES ATTORNEY

WESTERN DISTRICT OF NEW YORK  
UNITED STATES COURT HOUSE  
BUFFALO, NEW YORK 14202

December 8, 1972



United States Attorney  
313 Federal Building  
135-37 Ionia Ave., N.W.  
Grand Rapids, Michigan 49502

Attn: Frank Spies, AUSA

Re: U. S. v. Kenneth E. Oliver  
Criminal 1972-281

Dear Sir:

This will confirm our conversation of this date that the Western District of New York is amenable to permitting the defendant, Kenneth Oliver, to plead guilty to Count I of the enclosed indictment. We are also enclosing the Rule 20 forms.

Please advise quickly as to what the defendant's wish is in this case. If he does not wish to plead guilty I would request that a removal hearing be held immediately as we must try the defendant within six months after his arrest. He was arrested approximately five months ago.

Very truly yours,

JOHN T. ELFVIN  
United States Attorney

*Philip B. Abramowitz*  
By: PHILIP B. ABRAMOWITZ  
Assistant U. S. Attorney

Encl.

EXHIBIT B



20

## Affidavit of Frank Stadler Spies.

(Rev. 6-1-63)

## RULE 20—TRANSFER NOTICE

TO: United States Attorney 313 Federal Building Grand Rapids, Michigan 49502	DISTRICT Western District of Michigan	DATE December 8, 1972
NAME OF SUBJECT KENNETH E. OLIVER	STATUTE VIOLATED T.18, U.S.C., §2113	FILE DATA (Initials and Number) PBA:gmc CR 1972-281

## PART A—DISTRICT OF ARREST

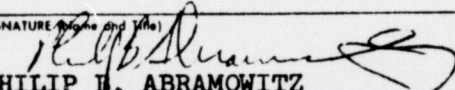
- ☐ The above-named subject has been apprehended in this jurisdiction and indicates amenability to Rule 20 disposition of the charges pending against him in your district. Kindly indicate whether you are agreeable to Rule 20 disposition and forward two certified copies of indictment or information if any.
- ☐ Enclosed is certified copy of waiver of indictment executed by defendant. Kindly file criminal information and forward two certified copies thereof.
- ☐ Enclosed is Consent to Transfer form executed in duplicate (one copy for your files) by defendant and the United States Attorney in the district of arrest. Kindly add your consent and have the Clerk of your district transmit the papers in the proceedings or certified copies thereof to the Clerk of the Court in this district in accordance with Rule 20. Docket No. \_\_\_\_\_
- ☐ Other (Specify): \_\_\_\_\_
- ☐ The above-named defendant entered a plea of guilty under Rule 20.

DATE OF PLEA                      DATE OF SENTENCE                      SENTENCE

FROM (Signature and Title)	ADDRESS

## PART B—DISTRICT OF OFFENSE

- ☒ I am agreeable to Rule 20 disposition.
- ☐ I am not agreeable to Rule 20 disposition. Defendant's appearance is desired at \_\_\_\_\_ on \_\_\_\_\_ at \_\_\_\_\_ o'clock.  
(Kindly notify me of any anticipated delay.)
- ☒ Enclosed are two certified copies of indictment ~~on indictment~~. Docket No. CR 1972-281
- ☐ Please have defendant execute waiver of indictment.
- ☐ Other (Specify): \_\_\_\_\_

SIGNATURE (Name and Title)  PHILIP H. ABRAMOWITZ Assistant U. S. Attorney	DISTRICT Western District of New York	DATE December 8, 1972
---	---	--------------------------

See United States Attorneys Manual, Title 2, pp. 11-16.2 and United States Attorneys Bulletin (Appendix) Vol. 9, No. 20, October 6, 1961, for an explanation of procedures under Rules 7 and 20, Federal Rules of Criminal Procedure. See also Title 4, p. 44.1, United States Attorneys Manual

## Affidavit of Frank Stadler Spies.

December 13, 1972

Mr. James K. Jesse  
Attorney at Law  
P. O. Box 147  
Buchanan, Michigan 49107

695-5441

Re: United States v. Kenneth Eugene Oliver

Dear Mr. Jesse:

This will confirm our telephone conversation of December 13, 1972, in regard to the two pending bank robbery cases against your client, Kenneth Eugene Oliver. We enclose a copy of a three-count Indictment returned against Mr. Oliver by the Grand Jury for the Western District of New York charging him with a bank robbery in Buffalo, New York, on July 12, 1972. It is my understanding that Mr. Oliver has given a confession to Special Agents of the Federal Bureau of Investigation admitting this bank robbery. If Mr. Oliver wishes to contest this case, trial would, of course, be held in Buffalo, New York. However, under Rule 20 of the Federal Rules of Criminal Procedure, he can enter a plea of guilty in the Western District of Michigan. We are informed by the United States Attorney's Office for the Western District of New York that if Mr. Oliver wishes to contest the Buffalo, New York, charges, trial must be held promptly and he will probably be taken to Buffalo for trial within the next month or so.

We originally charged Mr. Oliver with bank robbery in connection with the Berrien County case but had our warrant dismissed so that it would not be necessary to go through a preliminary examination, especially since there was supposed to be a State preliminary examination held at about the same time. Please assure Mr. Oliver that if he is successful in being found not guilty in the State murder and/or armed robbery cases, we will immediately obtain an Indictment against him for bank robbery [18 U.S.C. § 2113(a) - 20 yrs.], possession of bank robbery proceeds [18 U.S.C. § 2113(b) - 10 yrs.], bank robbery putting life in jeopardy with a

EXHIBIT

C



## Affidavit of Frank Stadler Spies.

Mr. James K. Jesse

- 2 -

December 13, 1972

dangerous weapon [18 U.S.C. § 2113(d) - 25 yrs.], committing a kidnaping during a bank robbery [18 U.S.C. § 2113(e) - 10 yrs. to life], and committing a murder in escaping from a bank robbery [18 U.S.C. § 2113(e) - 10 yrs. to life]. There is no double jeopardy defense to a Federal prosecution after a State prosecution.

If Mr. Oliver pleads guilty or is convicted of the New York bank robbery charge and the State murder-armed robbery charges in Michigan, we probably will not undertake a separate prosecution. Please discuss this matter with Mr. Oliver as soon as possible. The United States Attorney's Office for the Western District of New York indicates that they are willing to accept a plea of guilty to Count 1 of their Indictment under the Rule 20 procedure. If Mr. Oliver wishes to take this course will you please have him sign the "Consent to Transfer of Case for Plea and Sentence" form and return it to this office immediately. This form must be signed in duplicate by Mr. Oliver, by you as his counsel, and by a witness. We also enclose an affidavit of financial status which would be used for him to obtain court-appointed counsel. That way if he is going to plead in Grand Rapids, we can ask the Judge to have you appointed so that he will have counsel at his plea.

Very truly yours,

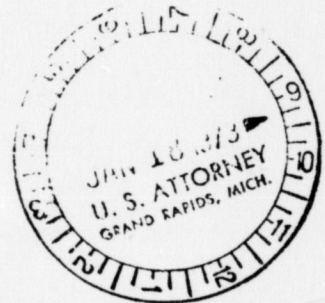
JOHN MILANOWSKI  
United States AttorneyBy FRANK S. SPIES  
Assistant U. S. AttorneyFSS:jmr  
Enclosures

## Affidavit of Frank Stadler Spies.

Telephone  
616-695-5441

*James H. Jesse*  
*Attorney*  
*P.O. Box 147*  
*109 Red Bud Trail North*  
*Buchanan, Michigan 49107*

January 17, 1973



United States Attorney  
Western District Of Michigan  
Federal Building  
Grand Rapids, MI 49502

ATTENTION: FRANK S. SPIES, ASSISTANT U.S. ATTORNEY

Re: United States v. Kenneth Eugene Oliver

Dear Mr. Spies:

I am writing in regard to the above entitled matter. At this time, it is the understanding of my client that he wishes to go to trial immediately in regard to his being charged with a bank robbery in Buffalo, New York. It is my understanding that originally he was going to be tried in Detroit. I would feel that this would be a satisfactory arrangement.

At this time, my client is demanding all of his constitutional rights to a speedy trial. In your letter of December 13, 1972, you indicated, and I quote from that letter as follows, "We are informed by the United States Attorney's Office for the Western District of New York that if Mr. Oliver wishes to contest the Buffalo, New York, charges, trial must be held promptly and he will probably be taken to Buffalo for trial within the next month or so."

Enclosed you will find my client's Financial Affidavit in regard to appointed counsel. Please advise me at the earliest possible time of when the trial date is going to be.

In addition, it is my feeling Mr. Oliver is entitled to all of his rights to a speedy trial. The failure to bring indictments against him in regard to the murder-armed robbery charge in Michigan I feel violates his constitutional rights. It is my contention that all his

EXHIBIT

D



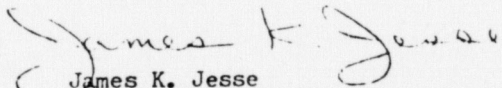
## Affidavit of Frank Stadler Spies.

Mr. Frank S. Spies, Assistant U. S. Attorney  
January 17, 1973  
Page 2

rights to a speedy trial are being denied by the fact that to date no formal action has been taken against him. It would appear to me that there will be no prosecution in regard to the Michigan charges, according to the actions so far from your office. If there are going to be charges, I would think it would be necessary to file them so that this man does not lose his rights to a speedy trial.

Please advise me at the earliest possible time of the Federal government's position in regard to these matters.

Yours very truly,

  
James K. Jesse  
Attorney at Law

JKJ:jkg

enclosure

## Affidavit of Ronald J. Taylor.

IN THE DISTRICT COURT OF THE UNITED STATES

For the Western District of New York

THE UNITED STATES OF AMERICA	)	
	)	AFFIDAVIT
-vs-	)	
	)	
KENNETH EUGENE OLIVER,	)	Criminal No. 1973-269
	)	
Defendant	)	

COMES NOW Ronald J. Taylor, Prosecutor, Berrien County,  
Michigan and states as follows:

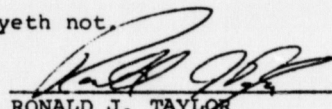
The Chronological order of the Kenneth Eugene Oliver  
trial is:

- 12 October 1972 - Offense
- 13 October 1972 - Arrest
- 14 October 1972 - Arraignment
- 21 October 1972 - Hearing - St. Joseph, Michigan
- 25 October 1972 - Hearing - Niles, Michigan
- 9, 10, 11 & 12 November 1972 - Preliminary Hearing,  
Niles, Michigan
- 15 November 1972 - Request from U. S. Attorney for  
status of case.
- 4 December 1972 - Arraignment of Oliver in Circuit Court
- 22 January 1973 - Defendant's motions to set bail,  
suppress evidence, etc. heard, substitution of attorneys
- 28 February 1973 - Hearing on Defendant's motion for  
Forensic Center examination - Defendant committed to  
Forensic Center.
- 29 March 1973 - U.S. Attorney agrees to cancel Writ of  
Habeas Corpus at our request.
- 11 April 1973 - Competency hearing.
- 19 April 1973 - Defendant's motion for change of venue,  
suppress statements, physical evidence, etc., heard.
- 25 May 1973 - Defendant waives jury trial, case assigned  
to a different Judge.
- 5-14 June 1973 - Trial
- 25 June 1973 - Sentencing.

It was necessary under the statutes and court rules of the  
State of Michigan to have the defendant in Court during all motions  
and other pre-trial proceedings, in order to expeditiously dispose of  
this matter in our jurisdiction, and therefore defendant was at all  
times between October 13, 1972 and June 25, 1973 unavailable for release  
to Federal authorities for proceedings herein.

FURTHER, the affiant sayeth not.

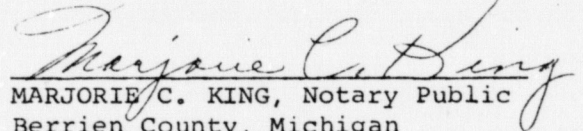
Dated: 13 August 1973

  
RONALD J. TAYLOR  
Prosecuting Attorney  
Berrien County, Michigan



## Affidavit of Ronald J. Taylor.

Subscribed and sworn to before me, a Notary Public in and  
for the County of Berrien, this 13th day of August, 1973.



MARJORIE C. KING, Notary Public  
Berrien County, Michigan  
My Commission Expires: 10-22-74

MARJORIE C. KING  
Notary Public, Berrien County, Mich.  
My Commission Expires Oct. 22, 1974

## Affidavit of Ronald J. Taylor.

70

NO. X 6570

DEC 12  
Sat Oct 14 Chicago

THE PEOPLE OF THE STATE OF MICHIGAN			PROSECUTING ATTORNEY	RESPONDENT'S ATTORNEY
<p><i>Kenneth Eugene Ronald Taylor</i>  <i>Crime</i>            RESPONDENT</p>			<p><i>James H. Rose</i>  <i>Reston Pige, P.L. P.</i>  <i>Chapman &amp; John, Detroit</i></p>	
<p>OFFENSE <i>1st murder 3rd murder 1st</i></p>				
YEAR	MONTH	DAY	PROCEEDINGS	
1972	Nov	9, 14, 15	<i>Pretrial</i>	
1972	Nov	20	<i>Filed Return to Ar Ct</i>	
1972	Nov	30	<i>Arrested</i>	
<p><i>Dec 4 "Info"</i>  <i>Dec 4 "Hight's - Dept. Atty. before Ct. for</i>  <i>Arrest. Info. advised Ar. S.M. to Ar.</i>  <i>Ar. Ct. entered plea of not guilty</i>  <i>to both Counts. Rem.</i></p>				
1972	Dec	5	<i>Filed - Prelim exam transcript</i>	
"	"	6	<i>Arrested Home</i>	
"	"	15	<i>Notice of Motion. Attachment of all</i>	
1972	Dec	20	<i>witnesses in people.</i>	
"	Dec	22	<i>On Trial Home</i>	
1973	Jan	16	<i>Motion to set reasonable Bail</i>	
"	"	18	<i>Motion to suppress evidence</i>	
"	"	19	<i>Motion for forensic examination of</i>	
"	"	20	<i>Motion to suppress evidence</i>	
"	"	21	<i>Motion to suppress oral statements &amp; go</i>	
"	"	22	<i>for Walter Hiram</i>	
"	"	23	<i>Motion to Quash info</i>	
"	"	24	<i>Set for Charge of Venue</i>	
"	"	25	<i>Notice of hearing of motion</i>	
"	"	26	<i>People's Counsel to Dept. motion</i>	
"	"	27	<i>Stipulation</i>	
1973	"	28	<i>Order substituting attys.</i>	
"	"	29	<i>Hight's - Dept. Atty. before Ct. on</i>	
"	"	30	<i>Arrested to set reasonable bail.</i>	
<p>(See page 502)</p>				

Obtain Carnal Bail  
 Conservator of the Peace



(5022)

Affidavit of Ronald J. Taylor.

NO. X

THE PEOPLE OF THE STATE OF MICHIGAN		PROSECUTING ATTORNEY	RESPONDENT'S ATTORNEY
vs.			
RESPONDENT			
OFFENSE			
YEAR	MONTH	DAY	PROCEEDINGS
<p><i>1973 Jan 20 Hughes (case #1) Ct heard argument from counsel reft. motion was denied upon stipulation of all counsel &amp; the reft. Atty. Jones withdrew as counsel reft. The Ct gave reft. choice of new firm - Spelman, Ogden &amp; Rogers or Cutzbaugh, LLP, Cutzbaugh &amp; Duran. Reft. chose Cutzbaugh LLP. Ct ordered they be substituted. Rm.</i></p> <p><i>29 Filed order of withdrawal of Jones as defense Counsel</i></p> <p><i>Jan 23 Filed notice of hearing amended motion</i></p> <p><i>Filed an amended motion re Jones psychiatric evaluation</i></p> <p><i>Feb 17 28 Hughes - Reft. Atty. before Ct. on reft's amended motion to have reft. examined by forensic Center. After long chambers conference w/counsel Ct ordered reft. committed to the Center for period not to exceed 60 days. Rm.</i></p> <p><i>1973 Mar. 6 order for forensic Psychiatric ex</i></p> <p><i>1973 Mar. 7 motion bond trans.</i></p> <p><i>Apr. 11 Hughes - Reft. Atty. before Ct. for hearing on reft's competency to stand trial. Ct. heard proofs, arguments. Ct. found reft. competent to stand trial. Rm.</i></p>			

New Atty.  
 Forensic Center

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Affidavit of Ronald J. Taylor.

NO. X 6570

506

THE PEOPLE OF THE STATE OF MICHIGAN		PROSECUTING ATTORNEY	RESPONDENT'S ATTORNEY
<i>Wm. Eugene Smith</i> RESPONDENT			
OFFENSE	YEAR	MONTH	DAY
PROCEEDINGS			

1972 Apr 11 Filed

112 Apr 11 Motion for the appointment of exa  
psychiatrist

117 Apr 11 Motion to quash

117 Apr 11 Motion for discovery of statements.  
Motion to suppress as  
statements, motion for discovery  
of any pulmonary evidence, 1  
motion to suppress physical evidence  
of any evidence, notice of hearing  
on motion.

Apr 12 Request for Witnesses

Apr 13 Request for Jury

Apr 14 Supplementary Answer to Motion for

1973 Apr 17 Motion to suppress witness list 9

173 Apr 17 Motion adjudicating deft. competency  
stand trialApr 19 Hughes - Deft. 1, Atty. Defs. et al. on  
various motions. Deft. motion of  
change of venue. At heard proofs  
matter taken under advisement.Deft. motion to suppress oral sta-  
ments and physical evidence heard  
at heard proofs matter taken under  
advisement. Deft. motion to suppress  
psychiatric evaluation to assist  
trial, granted. Deft. motion to  
suppress all evidence under advisement

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Affidavit of Ronald J. Taylor.

NO. X 6570

THE PEOPLE OF THE STATE  
OF MICHIGAN

PROSECUTING ATTORNEY

RESPONDENT'S ATTORNEY

Tennell Wilson

John H. ...

1973 4-19 Hughes cont'd Defts motion  
for discovery of statements, taken  
under advisement Defts motion  
for production of exculpatory  
evidence under advisement  
Briefs to be filed by Duwane  
by 4-27-73 - Sayth by 5-4-73  
and Duwane by 5-9-73.

1973 Apr 26 Evans psychiatric at the expense of  
the people.

Apr 27 " Disposition of Ronald McDonald &  
...

2) Legislation

1973 May 16 ... change of venue at

May 29 " ... to pay witnesses

1973 May 30 " ... Regarding exculpatory evidence

May 30 " order of disqualification

7.24.75 Jury venire

June 4 " Sup. order to strike evidence &  
witnesses' order.

5 " order denying defendant's motion for  
change of venue.

5 " order adding witnesses

5 " defendant's request for witnesses

5 " order of reassignment - Judge Hughes to

Judge Byrne.



Affidavit of Ronald J. Taylor.

NO. X 6570

THE PEOPLE OF THE STATE  
OF MICHIGAN

PROSECUTING ATTORNEY

RESPONDENT'S ATTORNEY

vs.

Kenneth Stow

RESPONDENT

John Dewane

OFFENSE

Murder

YEAR MONTH DAY

PROCEEDINGS

1973 June 5: Byrns, Dept. & atty before Court & ready for trial w/o a jury. Defense motion to sequester witnesses heard & w/exception of Det. Sgt. Schoonmaker & Jerry Nass, motion granted. The Court heard opening statement of the people. Defense motion for directed verdict heard, argument heard, motion denied. The Court heard further proofs of people. Mr. Dewane's motion to strike testimony of witness Pomeroy as to auto license number was heard, argument heard, motion denied. The Court heard further proofs of the people, whereupon Court adj. to 6-6-73.

1973 June 6: Byrns, Dept. & attys returned into open Court & trial w/o a jury resumed.

The Court heard further proofs of the people, whereupon Court adj. to 6-7-73.

1973 June 7: Byrns, Dept. & his attys returned into open Court & trial w/o jury resumed. The Court heard further proofs of the people. Witnesses Det. Cooper & Det. ~~Brown~~ Bruni were excused from testifying. The Court heard further proofs of the people, whereupon Court adj. to 6-8-73.

1973 June 8: Byrns, Dept. & his attorneys returned into open Court & trial w/o jury resumed. The Court heard further proofs of the people.

2/12  
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Affidavit of Ronald J. Taylor.

6570

NO. X - ~~7000~~

509

THE PEOPLE OF THE STATE  
OF MICHIGAN

PROSECUTING ATTORNEY

RESPONDENT'S ATTORNEY

Kenneth Oliver

John Weera

RESPONDENT

R. J. Taylor

OFFENSE

YEAR MONTH DAY

PROCEEDINGS

June 8, continued  
Hickson, Richard Dancy, Neil Dancy, Raymond  
Kerney, John V. Wallace & Rita Sample excused  
from testimony. The Court heard further proofs  
of the people, whereupon Ct. adj. to 6-12-73.  
1973 June 12 Bixas, kept & jury returned into open  
court & trial with jury resumed. The Court  
heard further proofs of the people, defense  
motion to strike the part of testimony of  
Witness Wayne Long regarding to a prior  
arrest of 1st was heard & granted. The Court  
heard conclusion of proofs of the people.  
Request by defense for Prosecutor to see  
people Call Lowell, Jr. Bixas, John Schopp  
& Edward Ramek was withdrawn. Ct. adj. to 6-13-73

1973 June 13 Bixas, kept & jury returned into  
open court & trial with jury resumed. At  
the close of people's case, defense motion,  
directed verdict to acquit of 1st degree & 2nd de-  
g murder murder was heard, arg. heard motion  
denied. The defense offered no testimony. The  
Court heard arguments of counsel, Ct. adj. to  
6-14-73.

1973 June 14 Bixas, kept & jury returned into open cou-  
rt & trial with jury resumed. The Court rendered its find-  
ing of fact & law & its verdict of guilty as charged. (See  
written opinion). Rem.



## Affidavit of Ronald J. Taylor.

NO. X 6570

FILED 1968 JUNE 25 10:00 AM Kalamazoo MI 49001

THE PEOPLE OF THE STATE  
OF MICHIGAN

PROSECUTING ATTORNEY

RESPONDENT'S ATTORNEY

vs.

Kenneth Eugene Olson

RESPONDENT

OFFENSE *Murder*  
YEAR MONTH DAY

b PROCEEDINGS

*175 June 25* (Signed) Deft. atty. appeared for sentencing w/ jury  
*Sentence imposed: 10 yrs of natural life at hard  
 labor in solitary confinement. Rts of appeal  
 stated by counsel. Remanded SPSM*  
*June 27* entered copy of record of sentence on record of court  
*27* Remand of sentence  
*27* Letter from DA to Kalamazoo House  
*July 10* Sentence pronounced  
*July 11* Warrant for removal of prisoner  
*July 12* " cert by circuit judge  
*July 23* " application for appeal counsel.  
*B* notice of motions  
*26* Order appointing counsel for Carl Connors  
*26* Letter from DA to SPSM opposition  
*July 31* letter from Marie Jensen  
*Aug 1* Authorization to pay witnesses  
*1* Authorization to pay witnesses fee

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Superseded by Cr-1973-269    Docket Entries—CR—1972—281.

**CRIMINAL DOCKET  
UNITED STATES DISTRICT COURT**

JOHN O. HENDERSON

D. C. Form No. 100 Rev.

CR-1972-281'

TITLE OF CASE	ATTORNEYS
THE UNITED STATES	For U.S.:
vs.	
KENNETH E. OLIVER	
Wilfully, knowingly and unlawfully, by force and violence and by intimidation, did take from the person and presence of an employee and others, money belonging to an FDIC-Insured bank(Ct. 1), in vio. Sect. 2113(a), Title 18, U.S.C.; Did take and carry away with intent to steal & purloin, certain money, belonging to an FDIC-Insured bank(Ct. 2), in vio. of Sect. 2113(b), T.18, USC; assaulting an employee and did put in jeopardy the life of the employee by means and use of a dangerous weapon, while in the act of taking money by force & violence from an FDIC-Insured bank, (Ct. 3), in violation of Section 2113(d), Title 18, U.S.C.	For Defendant:

STATISTICAL RECORD	COSTS	DATE	NAME OR RECEIPT NO.	REC.	DISB.
Offenses: 7/12/1972	3 Cts				
J.S. 2 mailed	Clerk				
J.S. 3 mailed NOV 5 1974	Marshal				
Violation	Docket fee				
Title 18					
Sec. 2113(a), 2113(b) & 2113(d)					

DATE	PROCEEDINGS
1972	
Dec. 5	Filed Indictment
Dec. 5	J.S. 2 made
Dec. 22	Filed Magistrate's transcript
1973	
Mar. 21	Filed Pet. & Order for Writ of H.C. Ad Proseq., ret. 3/28/1973-CURTIN, J
Apr. 2	Filed Writo H.C. Ad Proseq., ret. unserved.
July 12	Filed Pet. & Order for Writ of H.C. Ad Proseq., --CURTIN, J.
1974	
Apr. 29	Oral argument on motion in cr-1973-269, and 1972-281. Court schedule a meeting with counsel for 5/1/1974
May 1	Deft. present with counsel, informs Court he desires his own retained counsel. Adj. to 5/13/1974 for determination of counsel.
May 13	Determination of Counsel - Atty. David Jay also present; Deft. Kenneth Eugene Oliver advises the Court his family is trying to retain Atty. Vincent Doyle. Adj. 5/20/1974
May 20	Determination of Coun. - The Court excuses Atty. David Jay from further attendance; Deft. advised the Court that he does not whether his family has retained Atty. George Doyle; the Court on query to Atty. George Doyle was advised that retaining of



ONLY COPY AVAILABLE

Supersedes Cr-1972-281

Docket Entries—CR—1973—269.

JOHN O. HENDERSON

CRIMINAL DOCKET  
UNITED STATES DISTRICT COURT

D. C. Form No. 100 Rev.

CR-1973-269

TITLE OF CASE	ATTORNEYS
THE UNITED STATES	For U.S.: David Flierl
vs.	
KENNETH EUGENE OLIVER	
Willfully, by force, violence and intimidation, did take from an employee and others money belonging to an FDIC insured bank (Ct. 1), in violation of Section 2113(a), Title 18, U.S.C.; Did take and carry away with intent to steal and purloin, certain money belonging to an FDIC insured bank (Ct. 2), in violation of Section 2113(b), Title 18, U.S.C.; Assaulting an employee by means and use of a dangerous weapon while committing the aforesaid offense (Ct. 3), in violation of Section 2113(d), Title 18, U.S.C.	For Defendant: (replaced) David Gerald Jay, Esq. (assigned) George Doyle, Esq.
Offenses: 7/12/72	3 Cts.

STATISTICAL RECORD	COSTS	DATE	NAME OR RECEIPT NO.	REC.	DISB.
J.S. 2 mailed	Clerk				
J.S. 3 mailed NOV 5 1974	Marshal				
Violation	Docket fee				
Title 18					
Sec. 2113(a), 2113(b) 2113(d)					

DATE	PROCEEDINGS
1973	
July 25	Filed Indictment
July 25	J.S. 2 made
July 30	The Court enters a plea of not guilty for the defendant; after inquiry directs the deft. to contact previous atty. to determine if he will represent him, and to ret. on 7/31/1973 to advise the Court whether counsel is retained or if he intends to request appointment of counsel.
July 31	Deft. advises the Court that he will apply for assignment of counsel
July 31	Filed Court Steno's minutes of 7/30/1973
Aug. 2	Filed CJA-23 - Deft's financial affidavit in support of request for Atty.; and Cy. 5 of CJA-20 Order appointing David Gerald Jay, Esq., as counsel for the Deft --HENDERSON, J.; Cy. to the Adm. office, Orig. ret. to counsel for submission of voucher
Aug. 6	Filed Ct. steno's minutes of 7/31/1973
Aug. 13	Deft. being duly arraigned, enters a plea of not guilty. Motions returnable on or before 9/4/73
Aug. 14	Filed Ct. Steno's minutes of 8/13/73
Aug. 15	Filed Deft's. Notice of Motion for discovery, inspection, etc. - ret. 9/4/73
Aug. 31	Filed Govt's. Response to Pretrial Motions



## Docket Entries—CR—1973—269.

DATE	PROCEEDINGS
1973	
Sept. 4	Adj. to 9/17/1973
Sept. 17	Adj. to 10/1/1973
Oct. 1	Deft. advised the Court that Deft. abandons the motion for a speedy trial but requests a suppression hearing. The Court sets suppression hearing for 12:00 noon on October 9, 1973.
Oct. 9	Suppression Hearing - Court requests briefs from counsel in two weeks, and orders transcript for Deft. at Govt. expense.
Oct. 15	Filed Ct. Steno's transcript of proceedings held on October 9, 1973
Oct. 23	Filed Cy. 2 and 5 - of CJA-21 - Authorization and Voucher for Transcript in the Amt. of \$109.00; Orig. to the Adm. office for payment.
1974	
Mar. 4	Court directs Deft. to file a brief, reviewing Suppression Hearing.
Apr. 29	Oral argument on motions in Cr-1973-269, and 1972-281. Court schedules a meeting with counsel for 5/1/1974.
May 1	Deft. present with counsel, informs Court he desires his own retained counsel. Adj. to 5/13/1974 for determination of counsel.
May 13	Determination of Counsel - Atty. David Jay also present; Deft. Kenneth Eugene Oliver advises the Court his family is trying to retain Atty. Vincent Doyle. Adj. 5/20/1974
May 20	Determination of Counsel - The Court excuses Atty. David Jay from further attendance; Deft. advised the Court that he does not know whether his family has retained Atty. George Doyle; the Court on query to Atty. George Doyle was advised that retaining of Atty. Doyle is unresolved.
June 17	Status - James Denman of counsel George Doyle, Atty. David Gerald Jay appeared and was excused by the Court as Deft. and Atty. Denman advised the Court that George Doyle has been retained as counsel. The Court directed that motions are to be filed by 6/24/1974, but presence of counsel is not required.
June 25	Proceedings before the Magistrate - Deft. is requesting no further discovery. Govt. is ready for trial. Case to be referred to Judge Curtin.
July 1	Status Report. All motions made, motion on suppression reserved.
July 10	Filed Decision and Order denying Deft's motion to suppress statements and evidence seized; etc., --CURTIN, J.
July 22	Case is ready for trial, the Court announced this case may be tried after the current trial is concluded.
Aug. 26	The Court ordered case placed on trial calendar, 9/10/74
Sept. 6	Filed Subpoena to Testify - served on 9/5/74--Eleanor Whitmer
Sept. 6	Filed Subpoena to Testify-served on 9/5/74--Donald Warren
Sept. 9	Filed Subpoena to Testify-served on 9/4/74--Barbara Buchwald
Sept. 9	Filed Subpoena to Testify served on 9/5/74--Lynn Otterman
Sept. 9	Filed Subpoena to Testify served on 9/4/74--George Weigold
Sept. 9	Filed Subpoena (DT) -served on 9/5/74--Mr. Otto Kuehne
Sept. 10	Govt. moves case to trial before Judge Curtin, and Jury at Buffalo, N.Y., trial is adj. 9/11/74----
Sept. 12	Filed Subpoena to Testify--served on 9/10/74--Lawrence Bonney
Sept. 12	Filed Subpoena to Testify--served on 9/10/74--Lynn Otterman
Sept. 13	Filed Subpoena (DT) -served on 9/5/74--Secretary of State, State of Michigan
Sept. 13	Filed Subpoena to testify -served on 9/10/74--Carl Heck
Sept. 11	Trial continued from yesterday with the same appearances. Jury present but did not come into court. Deft waives jury trial in open court and consents to trial by the court. A written stipulation is to be entered into, concerning proposed testimony, etc. between the attys.

ONLY COPY AVAILABLE

vs. Kenneth Eugene Oliver  
CRIMINAL DOCKET

Docket Entries—CR—1973—269.

Cr-1973-269

7-10094

DATE	PROCEEDINGS	CLERK'S FEES	
		PLAINTIFF	DEFENDANT
1974			
Sep. 11	and presented to the court. Trial is adj. until tomorrow morning at 10:00 a.m.		
Sep. 12	Trial continues before Judge Curtin /Without the presence of the jury; counsel with deft. present furnished stipulations to the Court and deft. executed waiver of trial by jury. The Govt. rested its case, the Court ordered all exhibits to be marked as received in evidence. The Court reserved decision on motion by deft. to dismiss on failure of proof. The deft. offered no proof and no rebuttal evidence was offered. Deft. renewed motion to dismiss and the Court reserved decision. The Court adj. hearing of summations to 2:00 p.m. on 9/16/74		
Sep. 12	Filed deft's consent to trial without jury.		
Sept. 18	Trial continues without a jury. Counsel make closing remarks to the Court. Deft. renewed motions. The Court directs counsel to reconvene at 2:00 PM on 9/23/74 and deft is to be present.		
Sept. 27	Filed Ct. Steno's minutes of proceedings of 9/26/74		
Sept. 26	The Court announced findings of fact and conclusions of law, and found the deft. guilty on all three counts, sentencing was set for 10/15/74.		
Oct. 15	Sentence - Adj. to 10/21/1974		
Oct. 21	Sentence - The Court directed Atty. Doyle be notified that sentence will be at 9:15 any morning this week		
Oct. 25	Sentence was imposed as follows: On Count One, sentenced to the custody of the Atty. Gen. for fifteen years; on Count Two, sentenced to the custody of the Atty. Gen. for ten(10) years; on Count Three sentenced to the custody of the Atty. Gen. for fifteen years; all sentences to be concurrent one count with another, and with the sentence being served in the State of Michigan. On motion of the Govt. the Court granted motion to dismiss Cr-1972-281. The Court instructs the Clerk to file a notice of appeal.		
Oct. 25	J S 3 made		
Oct. 25	Filed Clerk's notice of appeal on behalf of defendant on order of Judge John T. Curtin. Cy. to deft., deft's atty., Asst. U.S. Atty. and CCA with statement of docket entries and Forms A, B, and CJA-23		
Oct. 30	Filed J and C. Commitment issued.		
Nov. 5	Filed Ct. Stenographer's minutes of 9/4/1973		
Nov. 4	Filed Cy. 5 of CJA-21 - Authorization for transcript necessary to perfect appeal; Cy. to the Adm. office.		
Nov. 5	Transcript Information (Form B) forwarded to the Court of appeals		
Nov. 11	Filed Ct. steno's transcript of the proceedings before Judge Henderson on October 1, 1973.		
Nov. 12	Filed Cy. 2 of CJA-20 - Voucher for Atty. David Gerald Jay, in the amt. of \$442.50; Orig. to the Adm. office for payment.		
	CLOSED		
Nov. 15	Filed cy. 2 of CJA 21 --voucher for court reporter Knisley in amt. of \$190. Orig. to Adm. Office for payment.		



## 7-1028.

[illegible]

## Transcript of Proceedings, July 30, 1973.

1

1 Buffalo, N.Y. HENDERSON, J. July 30, 1973

2 Cr. 1973-269 KENNETH EUGENE OLIVER

3  
4 APPEARANCES: JAMES GRABLE, ESQ.,  
5 Ass't. United States Attorney,  
6 Appearing on behalf of the Government.

7 MR. GRABLE: Good morning, your Honor. Criminal  
8 calendar, for arraignment, United States  
9 of America against Kenneth Eugene Oliver,  
10 Criminal 1973-269. Mr. Oliver, I hand  
11 you a copy of a three count indictment  
12 alleging charges of bank robbery, larceny  
13 and assault, and I would like to note  
14 for the record that this superseding  
15 indictment supersedes a prior three  
16 count indictment, Criminal 1972-281, filed  
17 in the past year, on which the defendant  
18 has never been arraigned. That indictment,  
19 of course, will be dismissed by the  
20 Government upon motion. On the superseding  
21 indictment, what is your plea to the three  
22 count indictment?

23 DEFENDANT: My plea is not guilty, your Honor.

24 THE COURT: Just a minute. I want you to read that  
25 indictment to him. He has no lawyer, has



1 he?

2 MR. CRABLE: Not at this point. The indictment reads:  
3 "The United States against Kenneth  
4 Eugene Oliver. Count 1: That on or  
5 about the 12th day of July 1972, in the  
6 Western District of New York, the defendant,  
7 Kenneth Eugene Oliver, willfully, knowingly  
8 and unlawfully, by force and violence,  
9 and by intimidation, did take from the  
10 person or presence of Donald E. Warren,  
11 and others, approximately \$40,636.14 in  
12 money belonging to and in the care, custody,  
13 control, management and possession of the  
14 Manufacturers & Traders Trust Company,  
15 2101 Elmwood Avenue, Buffalo, New York,  
16 the deposits of which were then insured  
17 by the Federal Deposit Insurance Corpora-  
18 tion; all in violation of Title 18, United  
19 States Code, Section 2113(a).

20 "Count II: The grand jury further  
21 charges that on or about the 12th day of  
22 July 1972, in the Western District of  
23 New York, the defendant, Kenneth Eugene  
24 Oliver, willfully, knowingly and unlawfully  
25 did take and carry away, with intent to

1 steal and purloin, from the Manufacturers  
2 & Traders Trust Company, 2101 Elmwood,  
3 Avenue, Buffalo, New York, the deposits  
4 of which were then insured by the Federal  
5 Deposit Insurance Corporation, certain  
6 money aggregating approximately \$40,636.14  
7 belonging to said bank, and in its custody;  
8 all in violation of Title 18, United States  
9 Code, Section 2113(b).

10 "Count III: The grand jury further  
11 charges that on or about the 12th day  
12 of July 1972, in the Western District  
13 of New York, the defendant, Kenneth Eugene  
14 Oliver, by force and violence, and by  
15 intimidation, did take from the person  
16 and presence of Donald E. Warren approx-  
17 imately \$40,636.14 in money belonging to  
18 and in the care, custody, control, manage-  
19 ment and possession of the Manufacturers  
20 & Traders Trust Company, 2101 Elmwood  
21 Avenue, Buffalo, New York, and Kenneth  
22 Eugene Oliver in committing the aforesaid  
23 offense did assault one Donald E. Warren,  
24 and put in jeopardy the life of the said  
25 Donald E. Warren, by means and use of a



1 dangerous weapon, that is, a handgun;  
2 all in violation of Title 18, United  
3 States Code, Section 2113(d)." That  
4 comprises the three counts. What is your  
5 plea to those counts?

6 DEFENDANT: This is the first time I have seen these  
7 charges. First of all, I was arraigned  
8 in the City of Detroit. I believe -- I'm  
9 not sure of the exact date, I think it was  
10 about the 14th of July of 1972, I had paid  
11 counsel for these charges in Detroit, and  
12 I would like at this time to either have  
13 these proceedings transferred back to  
14 Detroit where I do have retained counsel,  
15 if possible, or because of the length of  
16 this charge, the date committed, that the  
17 Court would dismiss these charges.

18 THE COURT: I will enter a not guilty plea for you  
19 since you are not represented by counsel.  
20 Now, on the question of your having a  
21 lawyer, do you have the funds to hire a  
22 lawyer to represent you before this Court  
23 on these charges?

24 DEFENDANT: Before this Court?

25 THE COURT: That is right.

1 DEFENDANT: No, I don't.

2 THE COURT: Do you want to make a request of the  
3 Court, as an indigent person, that the  
4 Court assign counsel to you here?

5 DEFENDANT: Your Honor, as I so stated, that I had  
6 retained counsel in the City of Detroit.

7 THE COURT: If that man wants to come here and  
8 represent you, that is a matter between  
9 you and him as individuals, lawyer and  
10 client, but you are now charged in  
11 this district with a felony that you  
12 just heard about, and you are entitled  
13 to be represented by competent counsel.  
14 If you want to wait and write to that  
15 man, that lawyer, and see if he will  
16 represent you on whatever you paid him  
17 in Detroit at these proceedings in  
18 Buffalo, I will give you that time.  
19 If, on the other hand, you haven't the  
20 money to hire a local lawyer of your  
21 choice, I will entertain an application  
22 by you to have this Court appoint a  
23 competent lawyer to represent you.  
24 Would you like to think about that for  
25 a while?



1 DEFENDANT: Yes, I would, your Honor.

2 THE COURT: I'll tell you what I will do. I will

3 enter a not guilty plea for you now,

4 and then as soon as you are able to

5 communicate with him -- I will ask the

6 Marshal to put him in touch with the

7 man that he is talking about, I mean by

8 telephone not by letter, so we can

9 proceed -- then I will have you back

10 here and we will make a decision. Do

11 you understand?

12 DEFENDANT: Yes, I do.

13 THE COURT: In the meantime I will enter a not

14 guilty plea for you. What is the bail

15 situation here?

16 MR. GRABLE: Your Honor, this man is presently serving

17 a life sentence for conviction of a

18 capital offense in the State of Michigan,

19 and the conviction was entered approx-

20 imately one month ago. Under the circum-

21 stances, the Government isn't requesting

22 that any bail be set in this case at this

23 time.

24 THE COURT: I'm only concerned with this case. I

25 said what bail are you requesting here?

## Transcript of Proceedings, July 30, 1973.

7

1 MR. GRABLE: Does your Honor insist I request a cash  
2 bail at this time or a bail to be set?  
3 THE COURT: Now, have you appealed your conviction  
4 for murder?  
5 DEFENDANT: Yes, most definitely, your Honor. Second-  
6 ly, I was on bail for \$30,000.  
7 THE COURT: Mr. Grable, what do I have to do, spell  
8 it out?  
9 MR. GRABLE: Your Honor, if I am being forced to  
10 request a bail, I will request a  
11 \$500,000 cash bail.  
12 DEFENDANT: The original bail was \$30,000, which was  
13 paid.  
14 THE COURT: I'll tell you what we will do, Mr.  
15 Oliver. Our immediate problem is the  
16 question of your being represented by  
17 competent counsel locally, do you see?  
18 DEFENDANT: Yes.  
19 THE COURT: I won't fix bail temporarily, although  
20 you are entitled to have bail fixed  
21 under the federal statutes. Now, today  
22 I expect you to be put in touch with this  
23 lawyer, whoever he is. What is his  
24 name?  
25 DEFENDANT: Donald Cutler.  
THE COURT: You know his phone number or can find



1 it, I assume?

2 DEFENDANT: Yes.

3 THE COURT: Then tomorrow, at any time in the day,  
4 I want you brought back here again and  
5 tell me what Cutler has to say about  
6 your arrangements, and we will talk  
7 further about counsel and bail.

8 DEFENDANT: Very good.

9 THE COURT: All right.

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## Transcript of Proceedings, July 31, 1973.

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1 Buffalo, N.Y. HENDERSON, J. July 31, 1973  
2 Cr. 1973-269 KENNETH EUGENE OLIVER  
3  
4 APPEARANCES: DAVID E. FLIERL, ESQ.,  
5 Ass't. United States Attorney,  
6 Appearing on behalf of the Government.  
7  
8 MR. FLIERL: Determination of counsel, Criminal 1973-  
9 269, United States versus Kenneth Eugene  
10 Oliver. It is my understanding, your  
11 Honor, that our office contacted  
12 Michigan and determined that the attorney  
13 who represented Mr. Oliver out there  
14 would not be willing to represent him  
15 in these proceedings in this district.  
16 THE COURT: Well, did you have Mr. Oliver talk to  
17 him, as I wished him to do?  
18 DEFENDANT: I spoke with the attorney, your Honor.  
19 THE COURT: Did you?  
20 DEFENDANT: Yes.  
21 THE COURT: He didn't want to do that, he didn't  
22 want to represent you, right?  
23 DEFENDANT: He didn't want to represent me here in  
24 Buffalo. As I stated before, that I  
25 was arraigned last year on this matter  
and he was willing to represent me in



1 Michigan. He stated it was up to the  
2 Court whether or not the proceedings  
3 could be held in Michigan.  
4 THE COURT: Well, Mr. Oliver, you have no funds to  
5 hire a lawyer here, right?  
6 DEFENDANT: Here, no, sir.  
7 THE COURT: And you ask me to appoint a competent  
8 lawyer for you here?  
9 DEFENDANT: Well, I really have no choice.  
10 THE COURT: Well now, you can be sure that I shall  
11 give you a lawyer that I believe in,  
12 who will represent you fully here, do  
13 you understand?  
14 DEFENDANT: I understand that, your Honor.  
15 THE COURT: You must make an affidavit that you have  
16 no funds to hire a lawyer of your own  
17 choice. If you want to do that, I will  
18 consider it very thoroughly, and I will  
19 assign someone to you that I believe  
20 will represent you to the full limits  
21 of his ability and his professional skill.  
22 Is that what you want to do?  
23 DEFENDANT: May I ask the Court this, your Honor?  
24 Just what are these proceedings at this  
25 time, am I to understand I'm being

1 re-arraigned?

2 THE COURT: No, I entered a not guilty plea for you

3 yesterday and now you are without counsel.

4 DEFENDANT: Correct.

5 THE COURT: I assume you want counsel?

6 DEFENDANT: Yes.

7 THE COURT: The way you get counsel is to pick your

8 own counsel or in the alternative ask

9 the Court, because you are indigent, to

10 appoint a competent lawyer to represent

11 you. If you want to make out that affida-

12 vit, I shall appoint a competent lawyer

13 to represent you in this trial.

14 DEFENDANT: There is no way I can have this trans-

15 ferred back to the State of Michigan?

16 THE COURT: There is no way at all. You are charged

17 here with a robbery in this district.

18 DEFENDANT: Well, if this is the case, I better speak

19 with my counsel again in Detroit. It was

20 his understanding that this could be

21 tried in Michigan.

22 MR. FLIERL: The only thing I can think of, for the

23 record, is a Rule 20, that is a plea to

24 the indictment or count of the indictment,

25 it's not a trial. The only place you can



1 stand trial is in this district.  
2 THE COURT: Let me give you my best advice, as a  
3 judge. Make an affidavit that you have  
4 no money to pay a local lawyer. I shall  
5 appoint competent counsel to talk to  
6 you, who has no part of this court at  
7 all, he will be your lawyer. You can  
8 talk that over with him, all the problems,  
9 in confidence. Do you understand?  
10 DEFENDANT: Yes.  
11 THE COURT: Then you can make a decision whether  
12 you want to talk to this lawyer or have  
13 that lawyer, who I will appoint for you,  
14 talk to him, and then you can make a  
15 decision.  
16 DEFENDANT: I think that is fair enough.  
17 THE COURT: All right. Now, first you must make  
18 out an affidavit that you have no money,  
19 because the Government doesn't pay  
20 lawyers for people who have money to  
21 pay for their own lawyer, you understand  
22 that, don't you?  
23 DEFENDANT: Yes.  
24 THE COURT: Make that out, and I will appoint a  
25 competent person here who will talk to

1                   you about all your problems, and then  
2                   you are off the ground, you are on your  
3                   way, and nothing is final.  
4    DEFENDANT:       All right, fine.  
5    THE COURT:       Is that all right?  
6    DEFENDANT:       That is fine.  
7    THE COURT:       Can you make that out today?  
8    MR. FLIERL:      Sure, your Honor.  
9    THE COURT:       Do that. All right.

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## Transcript of Proceedings, August 13, 1973.

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1 Buffalo, N.Y. HENDERSON, J. August 13, 1973  
2 Cr. 1973-269 KENNETH EUGENE OLIVER  
3  
4 APPEARANCES: THEODORE BURNS, ESQ.,  
5 Ass't. United States Attorney,  
6 Appearing on behalf of the Government.  
7  
8 DAVID G. JAY, ESQ.,  
9 Appearing on behalf of the Defendant.  
10  
11 MR. GRABLE: For arraignment, Criminal 1973-269,  
12 United States versus Kenneth Eugene  
13 Oliver; Attorney David Jay.  
14  
15 THE COURT: As you know, Mr. Jay, Mr. Oliver appeared  
16 before me and talked to me about a lawyer  
17 in another city, and I arranged for him  
18 to talk to him, and I believe he did.  
19  
20 DEFENDANT: Yes, sir.  
21  
22 THE COURT: This did not work out, is that right?  
23  
24 DEFENDANT: That is correct, your Honor.  
25  
26 THE COURT: I did not hear from him. I think you  
27 advised me that he was going to call  
28 me but he did not, did he, Mr. Buccella?  
29  
30 MR. BUCCELLA: No, he did not.  
31  
32 THE COURT: Anyway, then Mr. Oliver made an affidavit  
33 of indigency, and I appointed you to  
34 represent him, and I assume you have  
35

1                                   talked with him?

2       MR. JAY:               Yes, sir.

3       THE COURT:            I would like to have a more formal

4                                   rearraignment of him and set some terms

5                                   for motions, and so forth.

6       MR. BURNS:           Mr. Jay, have you received a copy of the

7                                   indictment?

8       MR. JAY:             I have two indictments, one appears to

9                                   be a superseding indictment. I don't

10                               know what the disposition of the first

11                               one was, whether it was actually dismissed

12                               in court or not. I know the Clerk's

13                               office doesn't have a copy of that.

14       THE COURT:           I haven't dealt with that.

15       MR. BURNS:           You have a copy of the superseding

16                               indictment dated July 25, 1973?

17       MR. JAY:             Yes, I do.

18       MR. BURNS:           Do you waive the reading of the indict-

19                               ment?

20       MR. JAY:             Yes, sir.

21       MR. BURNS:           How do you plead?

22       MR. JAY:             The plea is not guilty. We reserve all

23                               rights to make appropriate motions,

24                               according to the Court's schedule.

25       THE COURT:           Yes. There is a superseding indictment



## Transcript of Proceedings, August 13, 1973.

1 then?

2 MR. BURNS: Yes, your Honor.

3 THE COURT: I assume that the other indictment will

4 be regarded as a nullity, as far as

5 Mr. Jay is concerned?

6 MR. BURNS: That is correct, your Honor.

7 THE COURT: Then, Mr. Jay, I am thinking in terms

8 of two things. I understand Mr. Oliver

9 is under sentence in a state court.

10 MR. JAY: That is correct, your Honor.

11 THE COURT: It seems rather academic to be talking

12 about bail.

13 MR. JAY: We would not at this time ask for any

14 bail, your Honor.

15 THE COURT: All right. The next thing is some

16 terms on the motions. This is the summer

17 time, I don't want to interfere unreason-

18 ably with any plans you have, but when

19 do you think you could make the motions

20 returnable?

21 MR. JAY: September 4th, your Honor, the Tuesday

22 after Labor Day. Would your Honor be

23 having a calendar that day?

24 THE COURT: I expect to. We will set it down, and

25 if there is any change we will advise

1                   you. You make them returnable on  
2                   September 4th and argue them that day.  
3                   We will plan it that way.

4   MR. JAY:           Thank you very much.

5   MR. BURNS:        Thank you, your Honor.  
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1 Buffalo, N.Y. HENDERSON, J. September 4, 1973  
2 Cr. 1973-269 KENNETH EUGENE OLIVER  
3

4 APPEARANCES: THEODORE BURNS, ESQ.,  
5 Ass't. United States Attorney,  
6 Appearing on behalf of the Government.

7 DAVID G. JAY, ESQ.,  
8 Appearing on behalf of the Defendant.

9 MRS. SREBRO: There are two other matters to recall.  
10 Mr. Jay is here, I see. For motions,  
11 Criminal 1973-269, United States versus  
12 Kenneth Eugene Oliver.

13 MR. JAY: Excuse me, your Honor. Justice Gaughan  
14 requested my presence. Your Honor, I  
15 have just received this morning the  
16 Government's extensive rebuttal to my  
17 motion. I would like to digest that.  
18 In looking it over, I feel they have  
19 complied pretty much with our discovery,  
20 but there is one issue I think we will  
21 probably have to argue that. If we could  
22 have it on the 17th, I think that would  
23 be agreeable to both.

24 THE COURT: That is granted.

I hereby certify that this record is a  
true and accurate transcript from my  
stenographic notes in this proceeding

Official Reporter  
U. S. District Court

\* \* \* \* \*

H. T. NOEL

OFFICIAL REPORTER, U.S. DISTRICT COURT

Transcript of Proceedings, October 1, 1973.

1

1 UNITED STATES DISTRICT COURT  
2 WESTERN DISTRICT OF NEW YORK



3  
4 UNITED STATES OF AMERICA

5 -vs-

Cr. 1973-269

6 KENNETH EUGENE OLIVER,

7 Defendant.

8  
9 Proceedings in the above entitled action held before  
10 the HON. JOHN O. HENDERSON, United States District Judge,  
11 in and for the Western District of New York, at Buffalo,  
12 New York, on October 1, 1973.

13 APPEARANCES:

14 JOHN T. ELFVIN, ESQ.,  
15 United States Attorney, by  
16 THEODORE BURNS, ESQ.,  
17 Ass't. United States Attorney,  
18 Appearing on behalf of the Government.

19 DAVID G. JAY, ESQ.,  
20 Appearing on behalf of the Defendant.

21 \* \* \* \* \*



1 THE COURT: I will take your matter first, Mr. Jay.  
2 MR. BURNS: Criminal 1973-269, United States versus  
3 Kenneth Eugene Oliver.  
4 MR. JAY: We have resolved the speedy trial issue  
5 in this case. We are going to at this  
6 time abandon that motion. It appears  
7 that the only thing standing in the way  
8 of trial of this case at this time is  
9 a suppression hearing, which we could be  
10 ready to proceed on at any time the  
11 Court could hear it.  
12 THE COURT: What do you request?  
13 MR. JAY: Well, I know that the officers involved  
14 in this thing are from out of state. I  
15 think perhaps consideration would be --  
16 MR. BURNS: Your Honor, it would be a matter of a  
17 couple of days to give them notice and  
18 bring them to Buffalo. The Government  
19 would be prepared at any time within two  
20 days notice.  
21 THE COURT: Well, I have -- it is a very difficult  
22 week for me with these things coming  
23 in, I don't know quite where they are  
24 going to fit in. Why don't we do it  
25 on the 9th?

## Transcript of Proceedings, March 4, 1974.

1 Buffalo, N.Y. CURTIN, J. March 4, 1974  
2 CR. 1973-269 KENNETH E. OLIVER  
3 APPEARANCES: JOHN T. ELFVIN, United States Attorney, by  
4 WILLIAM SKRETTY, Assistant United States  
5 Attorney and THEODORE BURNS, Assistant  
6 United States Attorney.  
7 DAVID GERALD JAY, Esq., Attorney for the  
8 defendant.  
9 MR. SKRETTY: For status report, your Honor,  
10 Criminal 1973-269, United States vs.  
11 Kenneth E. Oliver; Attorney David Gerald  
12 Jay for the defendant: Theodore Burns for  
13 the Government.  
14 I am not familiar with this file.  
15 Where do we stand at this time in this case?  
16 MR. JAY: If it please the Court, we are pending  
17 decision on a motion to suppress, a motion  
18 concerning statements given by the  
19 defendant.  
20 THE COURT: There was a hearing evidentially before  
21 Judge Henderson on October 9th.  
22 MR. BURNS: Yes, your Honor, the hearing was  
23 October 9th.  
24 THE COURT: And this was a motion to suppress  
25 certain evidence which was submitted?  
MR. BURNS: That is correct, which the Government  
would offer at trial and also challenging





1 the admissability of certain statements  
2 made by the defendant at the time of his  
3 arrest.

4 THE COURT: Do you agree, Mr. Jay?

5 MR. JAY: Yes.

6 MR. BURNS: This I thought appropriate to bring  
7 to your attention since the defendant is  
8 presently in Erie County Holding Center.  
9 He is serving a sentence imposed by a  
10 state court in Michigan, life imprisonment.  
11 However, he is in this district for the  
12 purposes of standing trial on this  
13 indictment.

14 MR. JAY: To give you a little of the chrono-  
15 logy, your Honor, this incident occurred - -

16 THE COURT: Is there an appeal pending from the  
17 Michigan - - -

18 MR. JAY: Yes, there is. While he was out on  
19 bail on this charge in Michigan the other  
20 incident occurred for which he was tried,  
21 convicted and so on.

22 THE COURT: This thing evidently the Government  
23 feels that you should pursue it?

24 MR. BURNS: Yes, your Honor, no question about  
25 it, and we are prepared as soon as a

1 decision is made on the motion.

2 THE COURT: Let us do this; has either side

3 filed any briefs?

4 MR. BURNS: Yes, your Honor, we filed a brief.

5 THE COURT: Did you file anything?

6 MR. JAY: I will not be filing a brief, your

7 Honor.

8 THE COURT: You won't?

9 MR. JAY: No, sir.

10 THE COURT: You are willing to stand on the

11 Government's argument?

12 MR. JAY: No, we don't stand on the Government's

13 argument but I think the testimony is

14 very clear.

15 THE COURT: I can't understand your point, though,

16 unless I have a brief, Mr. Jay, because

17 I haven't, - I didn't participate at the

18 hearing. I know nothing about this. I

19 will read the transcript but I think in

20 order to find out where you feel the

21 Government's arguments are bad I must

22 have your written response.

23 MR. JAY: Your Honor, I will provide that but

24 I would request a pretrial conference on

25 this matter with the defendant present so



## Transcript of Proceedings, March 4, 1974.

4

1 that we can perhaps discuss disposition  
2 of this matter in another way other than  
3 trial.

4 THE COURT: Is it necessary that I be there?  
5 Why don't you two talk about it?

6 MR. JAY: We have, your Honor, but we haven't  
7 been able to get anywhere just yet.

8 THE COURT: I will have a meeting with you and  
9 Mr. Burns. Let us do that, - how about  
10 tomorrow afternoon at about 4:30?

11 MR. JAY: Sounds fine.

12 THE COURT: Or how about this afternoon?

13 MR. BURNS: Fine, your Honor.

14 THE COURT: 3:30, 4:00 o'clock, - 3:30.

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\* \* \* \* \*

I hereby certify that  
the foregoing is a  
true and correct  
stenographic report

*H. T. Noel*  
U.S. District Court

## Transcript of Proceedings, May 1, 1974.

1 Buffalo, N.Y. CURTIN, J. May 1, 1974  
2 CR. 1972-281  
3 1973-269 KENNETH EUGENE OLIVER  
4 APPEARANCES: JOHN T. ELFVIN, United States Attorney, by  
5 THEODORE BURNS, Assistant United States  
6 Attorney.  
7 DAVID GERALD JAY, Esq., Attorney for the  
8 defendant.  
9 THE COURT: In the case of United States against  
10 Kenneth Eugene Oliver, Criminal 1973-269  
11 and 1972-281.  
12 Mr. Oliver is here. The purpose of  
13 this meeting or oral argument, Mr. Oliver,  
14 as you know, we had a hearing before Judge  
15 Henderson on October 9, 1974 on various  
16 motions urged by your attorney Mr. Jay.  
17 Then following that the Government submit-  
18 ted a memorandum of law on November 8,  
19 1973 and there was some discussion  
20 generally about a possible plea here.  
21 In any event Judge Henderson became involved  
22 in a very complicated criminal case and  
23 in the midst of that he died on February  
24 19, 1974 and I had to take the case over  
25 and I have been engaged in the trial of  
that case since February, a few days after  
his death until about a week ago when that





1 trial concluded about a week ago and then  
2 since that time I have been trying to  
3 catch up and get to the things which I had  
4 on my desk and also those which he had on  
5 his desk and it seemed to me that I ought  
6 to have you in as soon as possible with  
7 your attorney Mr. Jay and find out what  
8 should be done on this motion to suppress.  
9 As I understand it and from a review of  
10 the transcript the FBI witnesses testified  
11 at the suppression hearing mainly to do  
12 about certain statements which were made  
13 by you during the course of the investiga-  
14 tion and also concerned with certain things  
15 of evidence which were seized. Mr. Jay, is  
16 there anything you want to say about the  
17 suppression hearing held before Judge  
18 Henderson?

19 MR. JAY:

20 Your Honor, at this point I think it  
21 would probably be improper for me to do so  
22 as Mr. Oliver has now, - just now informed  
23 me that he is in the process of securing  
24 private counsel. He advises me that his  
25 family has contacted Mr. Doyle of this  
city and perhaps anything further to be

## Transcript of Proceedings, May 1, 1974.

1 done in this matter should await determina-  
2 tion of what is going to be done with that  
3 situation.

4 THE COURT:

Mr. Oliver, I might say to you that  
5 you are entitled to an attorney, as you know,  
6 of your own choosing at any time during the  
7 proceedings and if you do not have the  
8 funds to hire a lawyer, as Judge Penderson  
9 here did, I will assign an attorney to  
10 represent you and it seems to me as a  
11 practical matter, - I have looked at the  
12 hearing here and I don't see anything else  
13 in addition to what Mr. Jay has done any  
14 other attorney can do because I believe  
15 that the proper steps were taken by the  
16 agents in their investigation but if you  
17 desire and you want I will give you a  
18 reasonable time to see if you can get other  
19 counsel but that will mean delay and I want  
20 on my part, - I want to get this thing  
21 decided not only just for the benefit of  
22 the people in the community generally but  
23 also for your benefit because I do not  
24 think anyone should be sitting in a holding  
25 jail, that the cases should be decided.



1                   You don't have to say anything if you do not  
2                   desire to, but on the counsel thing do you  
3                   want to continue with Mr. Jay or do you  
4                   want to see if you can get your own attorney?

5   THE DEFENDANT:           First of all, your Honor, I want to  
6                   say that I understand the position of the  
7                   Court. In regard to the hearing I am not  
8                   really pleased with the way it went. There  
9                   are other extenuating circumstances involved  
10                  in this. Therefore, I have decided to get  
11                  my own lawyer. With all due respect to Mr.  
12                  Jay as counsellor, I just didn't feel that  
13                  was handled properly.

14   THE COURT:             Do you know how long it will take you  
15                   to - - -

16   THE DEFENDANT:         Well, your Honor, I talked with Mr.  
17                   Doyle this past Friday. My family was to  
18                   get in touch with him by the end of this  
19                   week so if it please the Court I would like  
20                   to ask for at least a two week period.

21   THE COURT:             Mr. Oliver, I will do that and as a  
22                   practical matter it may take you that long.  
23                   If you can't make arrangements with Mr.  
24                   Doyle then I think you ought to have your  
25                   family members as quickly as possible see

1                   what they can do about other attorneys. I  
2                   will adjourn this matter at your request,  
3                   Mr. Oliver, and I want to assure you that  
4                   I am ready to handle this just as soon as  
5                   you are ready and, of course, I can not  
6                   permit it to go on. I will certainly give  
7                   you a reasonable opportunity to get counsel  
8                   but if there are, and certainly maybe I  
9                   should even look ahead and say there may be,  
10                  but if there are any kind of unreasonable  
11                  delays I am going to demand we all get  
12                  together and get the thing decided.

13   THE DEFENDANT:           That's fine, your Honor. I would like  
14                   to make a statement for the record that  
15                   this is the first delay that I have officially  
16                   asked for in these proceedings, for the  
17                   record.

18   THE COURT:               We will adjourn. It is now the 29th  
19                   of April. No, the first of May. Could  
20                   arrangements be made by May 13th? Well,  
21                   we will make it, because we usually try to  
22                   handle these matters on Monday. Is May  
23                   13th too soon?

24   THE DEFENDANT:           That would be - - -

25   THE COURT:               A week from this coming Monday. The



## Transcript of Proceedings, May 1, 1974.

6

1 coming Monday is the 6th.

2 THE DEFENDANT: It should be agreeable.

3 THE COURT: It should be agreeable, May 13th, and  
4 I think that way, Mr. McCloud, we should  
5 make arrangements, and Mr. Burns, to have  
6 Mr. Oliver here.

7 MR. BURNS: Yes, your Honor.

8 THE COURT: At 10:00 o'clock, and whatever attorney  
9 you do make arrangements with tell him to  
10 get in touch with Mr. Jay ahead of time  
11 so he can discuss the case with him and  
12 also Mr. Burns the Assistant United States  
13 Attorney, and if there is any further  
14 information he needs he can get in touch  
15 with my office. Very well. Mr. Jay, thank  
16 you for your services here very much and  
17 I think I will have you continue until such  
18 time as someone new comes in.

19 MR. JAY: Yes, sir. I will be here on the 13th.

20 THE COURT: If there is anything else comes up in  
21 the mean time, Mr. Oliver, get in touch with  
22 Mr. Jay.

23 THE DEFENDANT: Yes, sir.

24 \* \* \* \* \*

I hereby certify that this record is  
true and accurate transcript from my  
stenographic notes in this proceeding.

*H. T. Noel*  
Official Reporter  
U. S. District Court

H. T. NOEL  
OFFICIAL REPORTER, U.S. DISTRICT COURT

## Transcript of Proceedings, May 13, 1974.

1 Buffalo, N.Y.

CURTIN, J.

May 13, 1974.

2 CR. 1972-281  
3 1973-269

KENNETH EUGENE OLIVER

4 APPEARANCES:

JOHN T. ELFVIN, United States Attorney, by  
EDWARD WAGNER, Assistant United States  
Attorney, and THEODORE BURNS, Assistant  
United States Attorney.

6

DAVID GERALD JAY, Esq., Attorney for the  
defendant.

7

8 MR. WAGNER:

For determination of counsel, criminal  
1973-269 and criminal 1972-281, United  
States vs. Kenneth Eugene Oliver: David Jay  
for the defendant; Mr. Burns for the  
Government.

12

13 THE COURT:

Mr. Oliver, Mr. Doyle was in last week  
trying another criminal case. Good morning,  
Mr. Jay.

15

16 MR. JAY:

Good morning, your Honor.

17

18 THE COURT:

And he said he had not heard from you  
at all. Have you made arrangements for  
other counsel?

19

20 THE DEFENDANT:

Your Honor, I sent the Court a letter  
last week. I have a copy of that letter,  
stating the word I received from my parents  
that they would not be able to get Mr. Doyle  
until on about the 15th.

24

25 THE COURT:

You mean a couple of days from now?

25

THE DEFENDANT:

Yes, your Honor.

H. T. NOEL  
OFFICIAL REPORTER, U.S. DISTRICT COURT



## Transcript of Proceedings, May 13, 1974.

2

1 THE COURT:

Here is a copy of the letter. I  
remember receiving the letter. Mr. Oliver,  
it is up to you. I want this to go ahead.  
I do not want you sitting in jail waiting  
for it to go ahead. Do you want to adjourn  
another week?

7 THE DEFENDANT:

Yes, sir.

8 THE COURT:

All right; adjourned one week.

9 \* \* \* \* \*

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and accurate to  
stenographic notes in the  
Official Reporter  
U. S. District Court

## Transcript of Proceedings, May 20, 1974.

1 Buffalo, N.Y.

CURTIN, J.

May 20, 1974

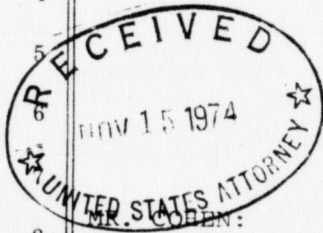
2 CR. 1972-281  
3 1973-269

KENNETH EUGENE OLIVER

4 APPEARANCES:

JOHN T. ELFVIN, United States Attorney, by  
KENNETH COHEN, Assistant United States  
Attorney and THEODORE BURNS, Assistant  
United States Attorney.

DAVID GERALD JAY, Esq., Attorney for the  
defendant.



8 For determination of counsel, Criminal

9 1973-269 and 1972-281, United States vs.

10 Kenneth Eugene Oliver. David Jay for the  
11 defendant.

12 THE COURT:

Mr. Oliver, were you successful in  
obtaining an attorney?

14 THE DEFENDANT:

13 Your Honor, at this point I don't know.  
15 Mr. Doyle was over at the holding center  
16 last week. He left a message for me he  
17 would see me over the week end and I did not  
18 see him.

19 THE COURT:

20 Mr. Doyle is going to be in late this  
21 afternoon on a hearing. We are going to  
22 continue the hearing at 3:30 this afternoon.  
23 Mr. Doyle will be here. Mr. Robinson, would  
24 you have Mr. Oliver brought back then so we  
25 can bring it to a head. He will be over in  
another matter and we can meet on it then.



## Transcript of Proceedings, May 20, 1974.

2

1 Mr. Jay, I don't see any reason for you to  
2 be here.  
3 MR. BURNS: Is the Court relieving Mr. Jay in this  
4 matter?

5 THE COURT: We will wait.

6 \* \* \* \* \*

7 I hereby certify that this record is  
8 true and accurate transcription of the  
9 stenographic notes in the presence of

10 *G. H. Bessie*  
11 Official Reporter  
12 U. S. District Court  
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USDC  
SECOND  
CIRCUIT

Form 74

# GENERAL CASE REPORT

Monthly Report Of Cases Awaiting Trial  
In United States District Court

## TRIAL CODES

ATD - Awaiting Trial Date  
TBS - Trial To Be Scheduled  
EX - Trial Date Scheduled  
More Than 60 Days After  
Date Of This Report

United States Attorney Contact

RICHARD J. ARCARA 1st Asst.  
Telephone Number  
716 842-3476

Page 5  
District Court - 55

Date September 1, 1973

\* A - Arrest, S - Service Of Summons, D - Detention Or F - Filing Of The Charge For Which The Defendant Is To Be Tried (whichever is earliest).

District Court Judge	Docket Number	First Named Defendant	Number Of Def.	Nature Of Offense	Starting Date*	Rule 5 Exceptions	Date Gov't. Ready For Trial	Date Trial Scheduled and/or Applicable Trial Code	ATD or EX Place X Here	AUSA
CURTIN	CR 1968-55	DORAN, Thomas	1	Tax Evasion	4/1/68(F)	d	11/1/69			Grable
CURTIN	CR 1971-52	LAUX, Peter	1	Selct.Ser.	4/2/71(F)	d	2/23/73	Argument 9/13/73		Arcara
CURTIN	CR 1972-12	STOVER, Selvyn	1	Bank Rob.	11/3/71(F)	b	8/23/73	ATD	X	Williams
CURTIN	CR 1972-281	OLIVER, Kenneth	1	Bank Rob.	7/13/72(F)	f	8/10/73			Burns
CURTIN	CR 1972-187	PATTI, John L.	1	Smuggling	10/11/72(F)		2/9/73	9/10/73		Boudreau
CURTIN	CR 1972-272	BORDZIK, John	1	Smuggling	11/20/72(A)		3/30/73	ATD	X	Boudreau
CURTIN	CR 1972-285	DANEALS, John B.	1	Selct.Ser.	12/5/72(F)	h	2/9/73	Argument 9/13/73		Williams
CURTIN	CR 1972-343	DIGATI, Charles P.	1	Selct.Ser.	12/5/72(F)	h	2/9/73	"		Flierl
CURTIN	CR 1972-404	KEITH, Raymond A.	1	Selct.Ser.	12/5/72(F)	h	5/25/73	Requesting dismissal Authority		Srebro
CURTIN	CR 1972-294	SHERK, Stephen M.	1	Selct.Ser.	12/5/72(F)	h	5/25/73	Argument 9/13/73		Williams
CURTIN	CR 1972-300	MANGIONE, Thomas D.	1	Selct.Ser.	12/5/72(F)	h	5/25/73	"		Williams
CURTIN	CR 1972-314	FENNER, Daniel M.	1	Selct.Ser.	12/5/72(F)	h	5/25/73	"		Srebro
CURTIN	CR 1972-316	FINCH, Donald E.	1	Selct.Ser.	12/5/72(F)	h	5/25/73	"		Srebro
CURTIN	CR 1972-318	OOGADO, Kent	1	Selct.Ser.	12/5/72(F)	h	5/25/73	"		Srebro
CURTIN	CR 1972-321	RICHIUSA, Paul J.	1	Selct.Ser.	12/5/72(F)	h	5/21/73	"		Srebro
CURTIN	CR 1972-324	LOOMIS, David S.	1	Selct.Ser.	12/5/72(F)	h	5/25/73	Requesting Dismissal authority		Srebro
CURTIN	CR 1972-325	HYSHAW, Earl G.	1	Selct.Ser.	12/5/72(F)	h	5/25/73	Argument 9/13/73		Srebro

Form 74—General Case Report.





## Exhibit 19—Consent to Search.

Detroit, Mich.

July 13, 1972

I voluntarily consent to allow a search of a 1970 Camaro, VIN # 124870 N 557827, bearing 1972 Michigan LGX-642 by Michael B. Hannell, John J. Callahan, Dudley F.B. Hodgson and Walter J. Edwards, who have identified themselves to me as special agents of the FBI. In addition, to the above, I voluntarily consent to allow the above FBI agents to search the premises of 1042 Stafford Place & garage, in Detroit, Michigan. I understand I have a right not to have a search made of my home. Signed Linda Oliver

Witness: Michael B. HannellWitness: Dudley F.B. HodgsonTime: 8:30 AM



## Excerpt of Testimony—Richard Farley.

4

1 DIRECT EXAMINATION BY MR. BURNS:

2 Q. Mr. Farley, by whom are you employed?

3 A. I am a special agent with the Federal Bureau of  
4 Investigation.

5 Q. Were you so employed on July 12, 1972?

6 A. Yes, I was.

7 Q. On that date did you have occasion to investigate  
8 an alleged bank robbery in Buffalo, New York?

9 A. Yes, the bank robbery took place                      also.

10 Q. Would you relate to the Court how you became involved  
11 in the investigation?

12 A. In the afternoon, approximately two o'clock, of July  
13 12, 1972 I received a telephone call from Buffalo,  
14 New York. Special Agent Hawley was calling from  
15 Buffalo, stating that --

16 MR. JAY:                      I object to any conversations, your  
17 Honor.

18 THE COURT:                      Now, where are you stationed?

19 THE WITNESS:                      Detroit, sir.

20 THE COURT:                      Well, I will overrule your objection  
21 to the fact that he heard from Hawley.  
22 All right, go ahead.

23 THE WITNESS:                      Agent Hawley advised that --

24 MR. JAY:                      Your Honor, perhaps the thrust of my  
25 objection was not clearly stated. I  
26 believe the agent is going into an  
27 exact reiteration of what the words

## Excerpt of Testimony—Richard Farley.

5

1                               were at this time. I would object to  
2                               that, and state that he could perhaps  
3                               state the substance of the conversation  
4                               or what he did as a result of it --

5       THE COURT:               Sustained.

6       MR. JAY:                -- rather than the words.

7       THE COURT:               Sustained.

8  
9       BY MR. BURNS:

10      Q. Mr. Farley, as a result of information you received --

11      THE COURT:              What we are trying to say, Agent Farley,  
12                               we don't want to know any proof being  
13                               a matter of truth in this case. If you  
14                               did something pursuant to Hawley's  
15                               inquiry, that is outside the normal  
16                               hearsay area, do you understand?

17      THE WITNESS:           Yes.

18      THE COURT:              Hawley said that he was interested in  
19                               a certain situation, right?

20      THE WITNESS:           Yes, sir.

21      THE COURT:              Then he asked you if you had some informa-  
22                               tion, is that correct?

23      THE WITNESS:           That is correct.

24      THE COURT:              What did you do?

25      THE WITNESS:           I read a license plate in the LEIN  
26                               machine, which is Law Enforcement  
27                               Intelligence Network, it is tied into



## Excerpt of Testimony—Richard Farley.

1 a computer in Lansing, Michigan, the  
2 capitol. The license plate number is  
3 LGX-642. We ran that in the computer --  
4 I did -- and it came back to Linda  
5 Oliver at 1042 Stafford Place, Detroit,  
6 Michigan.

7  
8 BY MR. BURNS:

9 Q Did the information from the computer indicate that  
10 the car belonged to Linda Oliver?

11 A Yes, it did.

12 Q Now --

13 THE COURT: Let me ask you this. Did Hawley give  
14 you that license number?

15 THE WITNESS: That is correct.

16 THE COURT: Of a Michigan plate?

17 THE WITNESS: Yes, sir.

18 THE COURT: Did he ask you to confirm who owned it?

19 THE WITNESS: That is correct.

20 THE COURT: And that is what your result was?

21 THE WITNESS: That is correct.

22  
23 BY MR. BURNS:

24 Q Mr. Farley, with that information, what did you do?

25 A I ran a record check on Linda Oliver, and it came up  
26 negative. About a half hour or forty-five minutes  
27 later I received a teletype from Buffalo which told  
me that the Manufacturers & Traders Trust Company -- I

## Excerpt of Testimony—Richard Farley.

1 don't know the exact address -- North Englewood Office  
2 in Buffalo, New York had been robbed by a male negro,  
3 approximately six feet tall, weighing two hundred  
4 thirty-five to two hundred and forty pounds. With  
5 that information -- in addition, the teletype that  
6 I received stated that there was a vehicle, which was  
7 described as a black over gray Camero, seen in the  
8 vicinity of the bank prior to the robbery, that is,  
9 not the same day as the robbery, but on the day prior  
10 to the robbery, by someone, and that a similar vehicle  
11 had been seen on the day of the robbery.

12 Q. With this information, and after having run the license  
13 plate number through your machine, what did you proceed  
14 to do in your investigation?

15 A. I did a number of spot checks at 1042 Stafford Place,  
16 looking for that vehicle.

17 Q. What day was this?

18 A. That was on the 12th.

19 Q. July 1972?

20 A. July 1972.

21 Q. Did you return to the residence?

22 A. Yes. On the 12th I didn't see the vehicle there,  
23 but on the 13th, in the morning of the 13th, I went --

24 THE COURT: What month?

25 THE WITNESS: July, I'm sorry. July 1972 I went  
26 with other agents to 1042 Stafford  
27 Place and knocked at the front door,



## Excerpt of Testimony—Richard Farley.

8

1 still not seeing the vehicle.

2  
3 BY MR. BURNS:

4 Q. Who responded to your knock?

5 A. A female, a white woman, responded to my knock. Her  
6 name was Linda Oliver -- she told me her name was  
7 Linda Oliver.

8 Q. What did you tell her?

9 A. I told her that we were with the Federal Bureau of  
10 Investigation, that we were investigating a bank  
11 robbery which took place in Buffalo, New York on the  
12 previous day, and we would like to talk to her about  
13 it. She said, "Come in." I asked her if she had a  
14 vehicle -- I asked her first, "Is your husband at  
15 home?" She said, "No, he is not."

16 MR. JAY: Your Honor, at this time I am going to  
17 object to any further hearsay --

18 THE COURT: Overruled. I am not receiving this as  
19 proof of any facts in the case. I am  
20 simply receiving this to try to get  
21 some continuity in the action of the  
22 FBI. Now, as such, overruled.

23 THE WITNESS: I asked her was her husband at home  
24 at the time and she said, "No, he is  
25 not." I asked her if she had a car,  
26 and she said yes, she did. She said,  
27 "It's out in the garage." I said, "Does

## Excerpt of Testimony—Richard Farley.

9  
1 it have the license plates still on it?" She said,  
2 "Yes, they are, they are on the car right now." I  
3 said, "What are the plates?" She said, "I don't know  
4 but we'll go out and check." We went to the garage,  
5 looked at the vehicle, and it was a 1970 black over  
6 silver Camero, bearing that Michigan license. I think  
7 it is --

8 Q. Prior to going out to the garage and looking at this  
9 automobile, did you ask her if you could have her  
10 consent to do that?

11 A. Not prior to looking for the license plate number.  
12 We went to see if the plates were on the car or  
13 stolen -- I did. When I determined they were still  
14 on the car, I went back into the house and asked her  
15 if she would consent to a search of that vehicle.  
16 She said yes, absolutely, she had done nothing wrong,  
17 and we could take a look through that car if we wanted  
18 to.

19 Q. Did you at that time suspect her of committing any  
20 criminal offense?

21 A. No, sir.

22 Q. Was her consent later reduced to writing?

23 A. Yes, it was. I was in charge, so I assigned Agent  
24 Bonney to write up a consent to search the vehicle,  
25 which she later signed. So Bonney went in the kitchen  
26 with another agent, Agent Harold, and wrote up a  
27 consent to search form.



## Excerpt of Testimony—Richard Farley.

10

- 1 Q Were you present during those actions?
- 2 A Yes, sir.
- 3 Q Did you see Agent Bonney dictating anything?
- 4 A Yes, I did. He dictated a consent to search form to
- 5 Agent Harold, who wrote it out.
- 6 Q Who is Harold?
- 7 A Michael Harold, an agent with our office.
- 8 Q I hand you pretrial Exhibit 1 for identification, and
- 9 ask you if you can identify that document?
- 10 A Yes, that is the document that Agent Bonney dictated
- 11 to Agent Harold, which she later signed -- Linda
- 12 Oliver, I'm sorry.
- 13 Q Were you present when this document was presented to
- 14 Linda Oliver?
- 15 A Yes.
- 16 Q What happened?
- 17 A She said she would sign it. Bonney advised her that
- 18 she didn't have to consent to a search of the vehicle,
- 19 he advised her of her rights orally, and then presented
- 20 this document to her. She signed the document, stating
- 21 again that she had done nothing wrong, and we wouldn't
- 22 find anything in the vehicle.
- 23 Q What names appear at the bottom of that document?
- 24 A Special Agents Michael B. Harold and Dudley F.B.
- 25 Hodgson.
- 26 Q Does Linda Oliver's name appear on that document?
- 27 A Yes.

## Excerpt of Testimony—Richard Farley.

11

1 Q How did it get there?

2 A She signed it.

3 Q In your presence?

4 A Yes.

5 Q Would you read the contents of that statement?

6 MR. JAY: I object to that.

7 THE COURT: He doesn't have to read it. I will take  
8 it as an exhibit here. It is an alleged  
9 consent to search that vehicle, is  
10 that right?

11 THE WITNESS: Yes, your Honor.

12 MR. BURNS: Yes, your Honor, together with a consent  
13 to search the premises.

14 MR. JAY: Your Honor, I am going to object at  
15 this time to any characterization of  
16 this document. If the Government wants  
17 to introduce that as an exhibit, I would  
18 like a voir dire on the execution of  
19 that.

20 THE COURT: All right.

21 MR. BURNS: Your Honor, we are not going to offer  
22 this in evidence at this point. We  
23 will later on when another witness  
24 testifies about the document.

25 THE COURT: All right.

26  
27 BY MR. BURNS:



## Excerpt of Testimony—Richard Farley.

12

1 Q. Mr. Farley, what did you do after this document was  
2 signed?

3 A. We continued the conversation with Mrs. Oliver, asking  
4 her where her husband was at the time. She said that  
5 he was at work. We asked her where was he last night,  
6 and she said he was away on business, that he came in  
7 early in the morning and left early in the morning.  
8 I was asking her these questions. Agent Bonney, in  
9 my presence, asked Mrs. Oliver was her husband black  
10 or white, and she said that he is black. I asked her  
11 to describe him. She said he is a male negro -- she  
12 said, "He is black, he is around six feet, and he  
13 weighs about two hundred and thirty pounds."

14 Q. Did you proceed to search the vehicle in the garage?

15 A. Yes, we did. We went to the garage. I went to the  
16 right front door, opened the right front door, that  
17 is, the passenger's side, pushed the button on the  
18 glove compartment, and when I did a quantity of money,  
19 an amount of money fell out of the glove compartment  
20 and was in open view, and it turned out to be \$1055  
21 in currency, which was wrapped -- some of which was  
22 wrapped in a money wrapper from the Manufacturers &  
23 Traders Trust Company, Buffalo, New York.

24 Q. I hand you Government's pretrial Exhibits 2 and 3  
25 for identification, can you identify those documents?

26 A. Yes. These are both fifty dollar money wrappers,  
27 initialed by myself, with the writing "From glove

## Excerpt of Testimony—Richard Farley.

13

1 compartment" on them, dated July 13, 1972.

2 Q. Where did you find those?

3 A. These I found in the glove compartment of the vehicle,  
4 of the Camaro.

5 Q. What did you do after --

6 THE COURT: Was the money wrapped in them or loose?

7 THE WITNESS: Some of the money was wrapped in one  
8 of the money wrappers. Others were not  
9 were not wrapped.

10 THE COURT: Some loose wrappers, how many were there?

11 THE WITNESS: Two wrappers, one loose, one not loose,  
12 one containing \$50 in currency, and  
13 the rest of the money was unwrapped.

14 THE COURT: All right.

15  
16 BY MR. BURNS:

17 Q. What did you do after you discovered these items?

18 A. I went -- I assigned another agent to handle the money,  
19 and I went back into the house, and I asked Linda  
20 Oliver, "Is your husband home now?"

21 Q. Excuse me, Mr. Farley, were you the agent in charge  
22 at this time?

23 A. Yes, I was.

24 Q. Go ahead.

25 A. I asked Mrs. Oliver was her husband at home. She  
26 said, "No, he's at work." I asked her again, "Is he  
27 in this house right now?" She appeared nervous, she



## Excerpt of Testimony—Richard Farley.

14

1 didn't answer. I said, "Is he upstairs now?" She  
2 said, "Yes, he is." I said, "Does he have a gun?"  
3 She said, "Yes, he does."

4 Q. With this information, what did you do?

5 A. I began to ascend the stairs with two other agents,  
6 one alongside of me, one behind me. I got to the  
7 first landing and I heard the rack of what I recognized  
8 to be an automatic weapon, an automatic handgun.

9 THE COURT: You mean being cocked?

10 THE WITNESS: Yes, being cocked. I continued up the  
11 stairs, made the turn at the landing --  
12 prior to ascending the stairs, I asked  
13 Mrs. Oliver what his first name was,  
14 she said Kenneth -- I said, "Kenneth,  
15 the FBI, you are under arrest, step  
16 out." We got no response. I said  
17 again, "FBI, step out, we have the house  
18 surrounded with agents in the front and  
19 agents in the back, there is a baby in  
20 the room." I told him his baby was in  
21 the room adjacent to it. I advised him  
22 that the bay was in the room and we  
23 didn't want anybody hurt, and would he  
24 step out. After a period of about a  
25 minute, I guess, he did step out. He  
26 was in his underwear at the time, and we  
27 put his hands up and handcuffed him.

## Excerpt of Testimony—Richard Farley.

15

1 I placed him under arrest, Agent Bonney advised him of  
2 his rights.

3 Q. Were you present when Agent Bonney advised him of his  
4 rights?

5 A. Yes, I was.

6 Q. Do you know what Agent Bonney said to him?

7 A. He advised him he had the right to remain silent --  
8 you mean the rights exactly?

9 Q. As you recall, what Agent Bonney said to him.

10 A. Agent Bonney told him he was under arrest for the  
11 robbery that took place in Buffalo on July 12th.

12 THE COURT: Was this upstairs?

13 THE WITNESS: Yes, sir, it was in his bedroom, immed-  
14 iately after I placed him under arrest.

15 THE COURT: Did he have a chance to sit down or  
16 how did you do that?

17 THE WITNESS: We moved him from the front doorway  
18 to the bed, about three or four feet,  
19 and sat him on the end of the bed.

20 THE COURT: Did you have your guns drawn?

21 THE WITNESS: Yes, we did.

22 THE COURT: What happened to this automatic, if  
23 you know, which you heard being cocked,  
24 was that in evidence or not?

25 THE WITNESS: We didn't see it then. We did find  
26 it a few minutes later in the closet  
27 of the room.



## Excerpt of Testimony—Richard Farley.

16

1 THE COURT: This man sat down on the bed?  
2 THE WITNESS: That is correct.  
3 THE COURT: At your direction, you had him under  
4 pistol point?  
5 THE WITNESS: Not then. After we handcuffed him  
6 we put our guns away, and sat him  
7 down on the bed.  
8 THE COURT: And then this conversation began?  
9 THE WITNESS: Yes, sir.  
10 THE COURT: All right.  
11 THE WITNESS: He said, "I don't know why you are  
12 here." We said -- Bonney said, "You  
13 are under arrest for the robbery of  
14 the Manufacturers & Traders Trust  
15 Company in Buffalo on July the 12th."  
16  
17 BY MR. BURNS:  
18 Q. Was that before or after you advised him of certain  
19 rights?  
20 A. That was before he advised him of his rights. He  
21 asked us immediately, "I don't know why you are here,  
22 what are you doing here?" From there we kept him  
23 on the bed, handcuffed. He said he was innocent,  
24 didn't know why we were here. We told him that we  
25 found the money. We told him -- I told him we found  
26 the money, and Bonney said, "They got your license  
27 plate number at the robbery." He said, "Well, I guess

## Excerpt of Testimony—Richard Farley.

17

1 that's it."

2 Q. Was this before or after you advised him of his rights?

3 A. This is -- now, let me get the timing straight. When  
4 Bonney we told him that he was under arrest for the robbery  
5 of the M & T Bank he said, "I don't know why you are  
6 here." Bonney orally advised him of his rights. When  
7 he finished advising him of his rights, Bonney said,  
8 "Do you understand that?" He said, "I understand  
9 what you are talking about." Then we asked him where  
10 the money was and different items. He said, "Well,  
11 I guess that's it."

12 Q. Now, what size room was this, do you recall?

13 A. It's about twelve by thirteen, twelve by fourteen.

14 THE COURT: Wait a minute. Before he said, "I  
15 guess that's it," Bonney made a  
16 recital --

17 THE WITNESS: Yes, sir.

18 THE COURT: -- as to what you refer to as rights.  
19 These rights mean nothing, as a term.  
20 What did Bonney say to him?

21 THE WITNESS: He said, "I'm going to advise you of  
22 your rights. Number one, you have the  
23 right to remain silent. Number two,  
24 anything you say can be held against  
25 you in court. You have the right to  
26 have an attorney present during any  
27 questioning now or in the future. If



### Excerpt of Testimony—Richard Farley.

you cannot afford an attorney, one<sup>18</sup> will be appointed for you by the court, if you wish one," and he said he understood that. Mr. Oliver responded in the affirmative, that he did understand that.

THE COURT: Then you recited to him, as I understand it, but you correct me, what you found, is that right?

THE WITNESS: That is correct.

THE COURT:                   And then to what your recital was, he responded with the words, "I guess that's it." Do I have it accurate or not?

THE WITNESS: That is correct. Now, when I advised him -- when Bonney advised him, I'm sorry, of his rights, he said, "I don't know why you are here." Now, in response to that I said, "I found the money in the glove compartment downstairs," and Agent Bonney told him, "They got your license plates on your car in Buffalo, the license plate on the car that is downstairs in Buffalo." Then he said, "I guess that's it."

THE COURT: All right.

## Excerpt of Testimony—Richard Farley.

19

1 BY MR. BURNS:

2 Q. Now, do you know what items of furniture there were  
3 in this room?

4 A. There was a bed in the middle of the room, which we  
5 sat him on, and there was a dresser on the left wall,  
6 that would be as you are standing at the foot of the  
7 bed, looking at the headboard, it would be on the  
8 left hand side, another dresser on the right hand side  
9 of the room, and there was a bathroom in the room and  
10 tables and chairs in the room.

11 Q. You stated that the defendant was sitting on the bed?

12 A. That is correct, sitting on the end of the bed.

13 Q. Now --

14 A. Actually on the corner of the bed, the corner toward  
15 the bathroom or toward the left wall.

16 Q. Now, is the individual you spoke to that day in the  
17 courtroom now?

18 A. Yes, he is.

19 Q. Would you point him out?

20 A. He is right there in the --

21 THE COURT: Mr. Oliver, stand up. Is that the  
22 man?

23 THE WITNESS: Yes, it is, that is Kenneth Eugene  
24 Oliver.

25  
26 BY MR. BURNS:

27 Q. Then did you proceed to ask Mr. Oliver some questions?



## Excerpt of Testimony—Richard Farley.

20

1 A. Agent Bonney did most of the talking to Mr. Oliver.  
2 I did ask him -- there was money on the counter along-  
3 side of the bed, some of it was wrapped up, some of  
4 it was --

5 THE COURT: What do you mean "wrapped up"?

6 THE WITNESS: In a rubber band, I'm sorry. There  
7 was plain bills attached to a white  
8 envelope on the counter, about four  
9 packages like that. Also, there was  
10 a manila envelope containing -- which  
11 we didn't know at the time -- it  
12 ended up containing more money.

13 THE COURT: You mean an envelope with something  
14 in it?

15 THE WITNESS: That is correct.

16 THE COURT: All right.

17  
18 BY MR. BURNS:

19 Q. Now, did Mr. Oliver say anything to you regarding  
20 whether he wanted to cooperate or speak to you?

21 A. He indicated that he would cooperate.

22 Q. Did he ever tell you he didn't want to speak to you?

23 A. He never told me that.

24 Q. Did you ever hear him tell any of the other agents  
25 in your presence?

26 A. No, I did not.

27 Q. What were some of the questions that were asked of

## Excerpt of Testimony—Richard Farley.

21

1 Mr. Oliver, and some of the responses?

2 A. I asked him if that money was part of the money from  
3 the robbery. He said yes, it was. He was telling  
4 Mr. Bonney that he had gotten into financial trouble  
5 in his business, that he had never done anything like  
6 this before, that he needed the money for his business,  
7 that was the reason that he robbed the bank.

8 Q. How far was this money from Mr. Oliver when he was  
9 sitting on the bed?

10 A. Two and a half, three feet.

11 Q. Do you recall any other statements made by Mr. Oliver?

12 A. Well, a --

13 Q. While in the bedroom.

14 A. A number of statements. One was, "Where is the rest  
15 of the money," I asked him. He said, "It's downstairs  
16 in the basement." We went down to the basement of  
17 the house. He said, "It's in an attache case below  
18 the stairs, a couple feet up from the stairs."

19 Q. Prior to leaving the bedroom, did you locate or  
20 retrieve any other items from the bedroom?

21 A. Yes, there was a cardboard cover for a Buffalo street  
22 map, it was folded over, and it was located on the  
23 dresser, the same place as the money, and I retrieved  
24 that and asked him what that -- it had some writing  
25 on it --

26 Q. I hand you pretrial Exhibit 4 for identification, can  
27 you identify that?



## Excerpt of Testimony—Richard Farley.

22

1 A. Yes, this is the item that I found on the dresser in  
2 his room, the bedroom. I asked him what it was, and  
3 he said, "It's a Buffalo street map." I opened it  
4 up and it had names written on it. I asked him what  
5 the names meant, and he said, "Those are the tellers,  
6 the employees of the bank." I said, "How did you get  
7 those?" He said that he had cased -- that was the  
8 word he used -- the bank prior to the robbery. He  
9 had gone out to the bank, and that he had written  
10 down the license plate numbers of the tellers and  
11 employees of the bank by sitting outside and waiting  
12 for them to come, and he would write them down, and  
13 he would identify them later by going to a local  
14 police department and advising the police department  
15 that he had been in a hit run accident with these  
16 people and would they please tell him the name of the  
17 owner of that license plate so that he could have his  
18 insurance company contact them. He said the police  
19 officer would invariably allow him to have that inform-  
20 ation or give him the name of the teller.

21 Q. Is pretrial Exhibit 4 the item that you retrieved  
22 from the top of the dresser?

23 A. Yes, it is initialed with my name at the bottom.

24 Q. You mentioned that there was some currency on top  
25 of the dresser, did you have occasion to count the  
26 amount?

27 A. Yes, I did. It was approximately \$4058.

## Excerpt of Testimony—Richard Farley.

23

1 Q. Where was that located?

2 A. It was located on top of the dresser, some of it in  
3 a manila envelope, some of it attached by a rubber  
4 band to a white envelope. There were three or four  
5 packages like that.

6 Q. Did you retrieve any other items from the bedroom?

7 A. Yes, a pair of black shoes which he told us he wore  
8 in the robbery.

9 Q. Any other items which you retrieved?

10 A. There was a German Luger automatic, which was retrieved  
11 in the same closet as the shoes, which was stuck between  
12 two books on one of the shelves in the closet, the  
13 handle of which was protruding.

14 Q. Now, you mentioned --

15 THE COURT: Did you inspect it?

16 THE WITNESS: We inspected the revolver.

17 THE COURT: It is not a revolver.

18 THE WITNESS: The automatic, I'm sorry.

19 THE COURT: Was it loaded?

20 THE WITNESS: Yes, it was. There was a live round  
21 in the chamber.

22

23 BY MR. BURNS:

24 Q. You mentioned earlier that you left the bedroom at  
25 one point, where did you go?

26 A. When we finished with this working in the bedroom, we  
27 took Mr. Oliver, and the other agents -- I took Mr.



## Excerpt of Testimony—Richard Farley.

- 1 Oliver with the other two agents to the basement of 24  
2 the house where we retrieved the attache case.
- 3 Q. Why did you go to the basement?
- 4 A. Mr. Oliver told us that some of the money from the  
5 robbery was in the attache case in the basement. He  
6 told us where it was -- he told me exactly where it  
7 was.
- 8 Q. Did he register any objection to going down to the  
9 basement?
- 10 A. No, sir.
- 11 Q. What did you do then?
- 12 A. We went down to the basement, all of us, and retrieved  
13 the money from exactly where he said it was, in a  
14 black attache case underneath the stairs.
- 15 Q. Did you ever have any occasion to retrieve --
- 16 THE COURT: What was that sum?
- 17 THE WITNESS: \$30,000.
- 18 THE COURT: All right. Was it wrapped?
- 19 THE WITNESS: It was--
- 20 THE COURT: Did it have bank wrappers on it?
- 21 THE WITNESS: It had deposits and receipts from  
22 the bank in it, it had white paper  
23 containing the name of the bank.
- 24 THE COURT: It had no wrappers on it, right?
- 25 THE WITNESS: No, sir.
- 26 THE COURT: Intermingled among the bills were  
27 deposit and receipt slips?

## Excerpt of Testimony—Richard Farley.

25

1 THE WITNESS: Yes, with the name of the Manufacturers  
2 & Traders Trust Company written thereon.  
3

4 BY MR. BURNS:

5 Q. I hand you Government's pretrial Exhibits 5 through  
6 11, and ask you if you can identify those documents?

7 A. Yes, those are all the items that were located in  
8 the attache case in the basement of the home, and  
9 each one is initialed by me, with the date and the  
10 location, attache case, basement.

11 Q. You mentioned that there was currency or cash or  
12 money of some sort in the attache case?

13 A. There was thirty thousand five hundred some dollars.

14 Q. Did you have occasion to --

15 THE COURT: Was it paper money?

16 THE WITNESS: Yes, it was paper money, in United  
17 States currency and Canadian currency.

18 THE COURT: I assume you kept that and --

19 THE WITNESS: Yes, sir.

20 THE COURT: -- are ready to introduce it at the  
21 appropriate time in this case?

22 THE WITNESS: Yes, sir.  
23

24 BY MR. BURNS:

25 Q. Did you ever have occasion to retrieve a white zipper  
26 bag from Mr. Oliver?

27 A. Yes. I asked him where the disguise that he used in



## Excerpt of Testimony—Richard Farley.

26

1 the robbery was, and he said, "My kit is right there,"  
2 pointing to a white plastic bag, woman's type bag,  
3 with a zipper top on it.

4 Q. Where was that?

5 A. That was at the foot of the bed in his bedroom.

6 Q. Was that prior to leaving the bedroom or --

7 A. Prior to leaving the bedroom, right.

8 Q. Did you have occasion to look inside that bag?

9 A. Yes, I did.

10 Q. Do you recall some of the items in there?

11 A. There was a Buffalo street map located in the bag.  
12 There were receipts for deposits of money, payments  
13 of bills, that took place, according to the date on  
14 them, on the 12th of July 1972, and a number of other  
15 items; injection for knocking a person out or killing  
16 someone's pain, hypodermic syringes, tape, a mustache,  
17 there was a wig in there, a dark brown mustache and  
18 dark brown wig. There was liquid makeup, eye makeup  
19 and facial makeup, there was rope. There were six  
20 bottles of ketaject tetamine hydrochloride with five  
21 syringes.

22 THE COURT: Do you know that --

23 THE WITNESS: It was written on --

24 THE COURT: -- by any proper name?

25 THE WITNESS: It was written on the outside of the  
26 bottles, the vials, that was contained  
27 in there.

## Excerpt of Testimony—Richard Farley.

1 THE COURT: No, I said do you know what it is? <sup>27</sup>  
2 THE WITNESS: Yes, I do.  
3 THE COURT: From your own experience?  
4 THE WITNESS: No, I talked to a doctor in Detroit  
5 and asked him what it was. He said  
6 it is used by physicians --  
7 MR. JAY: I object to what the doctor may have  
8 said. If the Government wants to  
9 submit any exper evidence on what this  
10 drug is, there is an appropriate way  
11 to do it.  
12 THE COURT: Sustained.  
13  
14 BY MR. BURNS:  
15 Q. Mr. Farley, did you ever ask Mr. Oliver about any  
16 weapon that may have been used in the robbery?  
17 A. Yes, I did. I asked him where the gun was that he  
18 used in the robbery. He said that -- I asked him was  
19 the German Luger automatic the one he used in the  
20 robbery. He said no that it wasn't. He said the  
21 gun that he used in the robbery was a .45 caliber  
22 automatic, which was on the shelf in the garage, in  
23 his garage downstairs.  
24 Q. Did you ever have occasion to look for that weapon?  
25 A. Yes. Agent Hodgson retrieved that weapon.  
26 Q. Now, you testified that you interviewed Mr. Oliver  
27 in the bedroom, and also you went to the basement to --



## Excerpt of Testimony—Richard Farley.

23

1 THE COURT: Do you have that weapon, do you expect  
2 to introduce it here?

3 THE WITNESS: Yes, I do.

4 THE COURT: Was it loaded?

5 THE WITNESS: No, sir, it was not.

6 THE COURT: When you found it it wasn't loaded?

7 THE WITNESS: It wasn't loaded when I found it.

8 THE COURT: Did it have a clip?

9 THE WITNESS: Yes, it did.

10 THE COURT: All right.

11  
12 BY MR. BURNS:

13 Q. You testified also that Mr. Oliver went down to the  
14 basement with you to retrieve this attache case.  
15 What happened after that point?

16 A. We went from the basement to the first floor of the  
17 house, it is a three story house, counting the base-  
18 ment, we went back to the first story, into the living  
19 room, and I asked him if that was all the money, all  
20 the money from the robbery is what I said, and he  
21 said no, he had some in his wallet. He took his  
22 wallet out and gave me \$159 in cash, and he had two  
23 receipts for payments of loans, I believe it was, and  
24 they were in the amount of \$900, and the date was  
25 July 12, 1972, and the bank was the Michigan Bank in  
26 Detroit, Michigan. That is two separate ones for a  
27 total of \$1800.

## Excerpt of Testimony—Richard Farley.

42

1 that or what?

2 A. No, I didn't.

3 Q. Did you leave the other agents at the back door?

4 A. Yes. I assigned one car of agents, as I said, to  
5 watch the back, if you call it the back of the house,  
6 and the other car of agents I had watch the parking  
7 lot in front of the house where they could see the  
8 garage while we were inside. Those fellows stayed  
9 outside, Agent Bonney and I were inside.

10 Q. Where was the conversation had with Mrs. Oliver, the  
11 first words that were stated after you got in the  
12 house?

13 A. I told her my name, I was with the FBI, we were  
14 investigating a bank robbery which had taken place in  
15 Buffalo on the day before.

16 Q. And where did these conversations happen?

17 A. Inside the front door, in the hall between the kitchen  
18 and the stairs going upstairs to the upstairs bedrooms.

19 Q. Two of you agents standing there?

20 A. Yes.

21 Q. With Mrs. Oliver?

22 A. Right. I think, counsel, there might have been another  
23 agent come in. I may have let another agent, probably  
24 Hodgson, through the front door. I had one car watch  
25 the parking lot. I think I might have had three there.

26 Q. Can you tell me how the agents were dressed, normal  
27 suits?



## Excerpt of Testimony—Richard Farley.

43

- 1 A. Suits.
- 2 Q. And did you display any weapons at this time?
- 3 A. No, sir.
- 4 Q. You had had information that a man had robbed a bank
- 5 with a weapon in Buffalo, that is what you were
- 6 investigating?
- 7 A. I was investigating that bank robbery and the fact the
- 8 vehicle was seen in Buffalo with so and so license
- 9 plates.
- 10 Q. You asked her first about the car, is that correct?
- 11 A. That is correct.
- 12 Q. And she volunteered to allow you to go with her to the
- 13 garage or she directed you to the garage or what?
- 14 A. I asked her first, "Is your husband home?" She said,
- 15 "No, he is not." Then I said, "We are investigating
- 16 a bank robbery in Buffalo, that took place in Buffalo
- 17 yesterday, in which a vehicle was seen." As you said,
- 18 I wanted to find out if the license plates were stolen
- 19 on the car or if the car was out there. She told me,
- 20 "The car is in the garage right now," and her husband
- 21 had used the car, had been out of town is what her
- 22 words were, on the day prior, had come in late last
- 23 night, and had gone out to work this morning.
- 24 Q. You went to the garage, as you testified, and then you
- 25 verified the license plate?
- 26 A. The license plate number.
- 27 Q. Where was Mrs. Oliver when you were doing that?

1 A. In the garage.

2 Q. She came out to the garage?

3 A. I didn't know where the garage was. She took me into  
4 the garage.

5 Q. Did you come out of the house and go to the garage  
6 door or through the house?

7 A. You can walk right through into the garage from the  
8 house.

9 Q. What about the other agent, was he with you?

10 A. Bonney was there with me, and I am pretty sure Agent  
11 Hodgson.

12 Q. Now, I think you testified that this Exhibit 1 marked  
13 for identification, Government's Exhibit 1, was signed  
14 by Mrs. Oliver at some time after the search of the  
15 vehicle, is that correct?

16 A. No, she signed that before we searched the vehicle  
17 at all. I didn't search the vehicle when I went out  
18 there.

19 Q. You verified the license plate?

20 A. I verified the license plate, and I came back in the  
21 house and talked to Mrs. Oliver, asked her if she  
22 would consent to a search of the vehicle. She said  
23 she had done nothing wrong, we would find nothing  
24 involving her or anyone.

25 Q. Then you did search it, then she signed this?

26 A. No, counsel, I think you have it wrong. I asked her  
27 would she consent to a search, she said yes. I was



## Excerpt of Testimony—Richard Farley.

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1 in charge and I assigned Agent Bonney to --

2 Q To write it up?

3 A -- to write it up.

4 Q In the meantime you were out there searching?

5 A No, we didn't leave to go. I took her with me during  
6 the search.

7 Q And she had already signed this Exhibit 1?

8 A That is correct. It took a few minutes, four or five  
9 minutes.

10 Q Were you asking her any other questions in the mean-  
11 time while you were waiting?

12 A Yes. Agent Bonney --

13 Q You asked her what her husband looked like, the weight  
14 and height, you verified that?

15 A Verified that.

16 Q Did you get a feeling at that time that Mr. Oliver  
17 was there, was there at the house?

18 A I felt at the time that he was not there. I believed  
19 her that he was not in the house.

20 THE COURT: What alerted you to the possibility that  
21 he was in the house?

22 THE WITNESS: After I found the money in the car I  
23 came back in and I wanted to determine  
24 from her where he was at the time. I  
25 asked her if her husband was here right  
26 now. She said, "No, he is not." When  
27 she said, "No, he is not," she looked

## Excerpt of Testimony—Richard Farley.

46  
at the ceiling in the room, she looked  
up, she appeared to get a little shaky,  
so I said, "Is he in the house right  
now?" She didn't answer, she gave me  
no response. I asked her again, "Is  
he in the house right now," and she  
shook her head and said, "Yes, he is."  
I said, "Is he upstairs?" She said,  
"Yes, he is." I said, "Does he have  
a gun?" She responded, "Yes, he does."  
Just the look on her face --

THE COURT: All right.

BY MR. JAY:

Q. Let me ask you this. I think you mentioned at one  
point or another that you advised at least Mr. Oliver  
when you were going up the stairs that the house was  
surrounded, you were speaking of the three or perhaps  
four other FBI agents, is that correct?

A. What I did when I found out that he was upstairs from  
her, I wanted to make sure he wouldn't get out either  
of the two top windows, so I sent Agent Hodgson to the  
outside to tell Callahan or another agent there to  
contain the front and to tell whoever was at the back  
door to contain him at that end. Then Hodgson came  
back in and we proceeded to go up the stairs.

Q. Isn't it a fact that when you proceeded to that



## Excerpt of Testimony—Richard Farley.

1 on tape or his wife or anyone else in  
2 this case?  
3 THE WITNESS: No, I don't.  
4 THE COURT: Can you certify to us that none of your  
5 colleagues had such a device?  
6 THE WITNESS: I can do that.  
7 THE COURT: You know that from your private inves-  
8 tigation as a case agent?  
9 THE WITNESS: Yes.  
10 THE COURT: What the FBI does in some cases is a  
11 matter of different concern, is that  
12 correct?  
13 THE WITNESS: Yes, sir.  
14 THE COURT: All right.  
15 MR. JAY: Thank you. One moment, please?  
16 THE COURT: Yes.  
17 MR. JAY: Thank you.  
18 MR. BURNS: Your Honor, I have two questions, if I  
19 may.  
20  
21 REDIRECT EXAMINATION BY MR. BURNS:  
22 Q. Mr. Farley, did you ever receive any information that  
23 a woman was involved in this bank robbery in Buffalo?  
24 A. No, I did not.  
25 Q. Did you ever receive any information that a black over  
26 gray Camero was noticed in the vicinity of the bank  
27 on the day of the robbery in question?

## Excerpt of Testimony—Richard Farley.

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1 A. Not a black over gray, no.

2 MR. BURNS: That is all I have.

3 MR. JAY: Thank you.

4 THE COURT: Now, have you got a plane out of here

5 today?

6 THE WITNESS: About four o'clock, your Honor.

7 THE COURT: Stand by then for a bit.

8 THE WITNESS: I'm in no rush.

9 THE COURT: Just in case we get some request to

10 recall you. Take off at three to meet

11 your plane.

12 MR. JAY: I would request, your Honor, at this

13 time that this witness be instructed

14 not to discuss his testimony with any

15 other witnesses.

16 THE COURT: Don't discuss your affairs with other

17 agents.

18 THE WITNESS: Yes, sir. Thank you.

19 THE COURT: At three o'clock -- you can make the

20 airport -- no, at a quarter to three,

21 Mr. Jay, I want this man to get on his

22 way.

23 MR. JAY: We are finished with him, your Honor.

24 We have no further questions.

25 THE COURT: No problem?

26 MR. JAY: No problem.

27 THE COURT: Then you are on your way.

\* \* \*



## Excerpt of Testimony—Lawrence Bonney.

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1 Q. And --

2 THE COURT: Where is that, Buffalo?

3 MR. BURNS: In Detroit.

4

5 BY MR. BURNS:

6 Q. Did you go to this address in Detroit?

7 A. Yes, I did.

8 Q. In whose company were you on that date?

9 A. I was with Special Agent Richard Farley and Dudley  
10 Hodgson.

11 Q. Who was in charge of the investigation?

12 A. It was assigned to Richard Farley.

13 Q. Now, would you relate to the Court the events that  
14 took place that day when you entered the residence,  
15 how you came to enter the residence at 1042 Stafford  
16 Avenue?

17 A. Do you mean how I came to enter or what happened after  
18 we entered?

19 Q. Why don't you pick it up after you entered, what  
20 happened?

21 A. We were greeted at the door by a woman who identified  
22 herself as Linda Oliver, and we asked her if her  
23 husband was home. She said no, he wasn't, and we  
24 asked what kind of car she owned, and she stated she  
25 owned a black over gray Camero. We asked if it was  
26 there now. She said it was, and we asked if we  
27 could look at it, and she said certainly. We went

## Excerpt of Testimony—Lawrence Bonney.

1 into the garage and saw that such a car was there, and  
2 checked the license plate, and it was the same tag  
3 number we had been given by the Buffalo office as  
4 belonging to a vehicle that had been seen in the area  
5 of the bank on several different occasions. After  
6 seeing this, we went back into the house and asked  
7 Linda Oliver if we could have consent to search the  
8 vehicle.

9 Q. Do you recall who asked her for a consent to search  
10 the vehicle?

11 A. I believe it was Farley, I'm not sure. It could have  
12 been any one of us. And she said there would be  
13 no problem at all, and Special Agent Michael Harold  
14 and myself sat down and wrote out a consent to search  
15 form.

16 Q. What part did you have in preparing the form?

17 A. I dictated part of it to Special Agent Harold, and  
18 together we put it together, wrote it down.

19 Q. I hand you Government's pretrial Exhibit 1 for iden-  
20 tification, can you identify that item?

21 A. Yes, this is the consent that we put together.

22 Q. What role did you have in putting this together?

23 A. I dictated a good part of it to Special Agent Harold.

24 Q. Was this -- what names appear on the bottom of this  
25 paper?

26 A. Michael Harold and Dudley Hodgson.

27 Q. Who are they?



## Excerpt of Testimony—Lawrence Bonney.

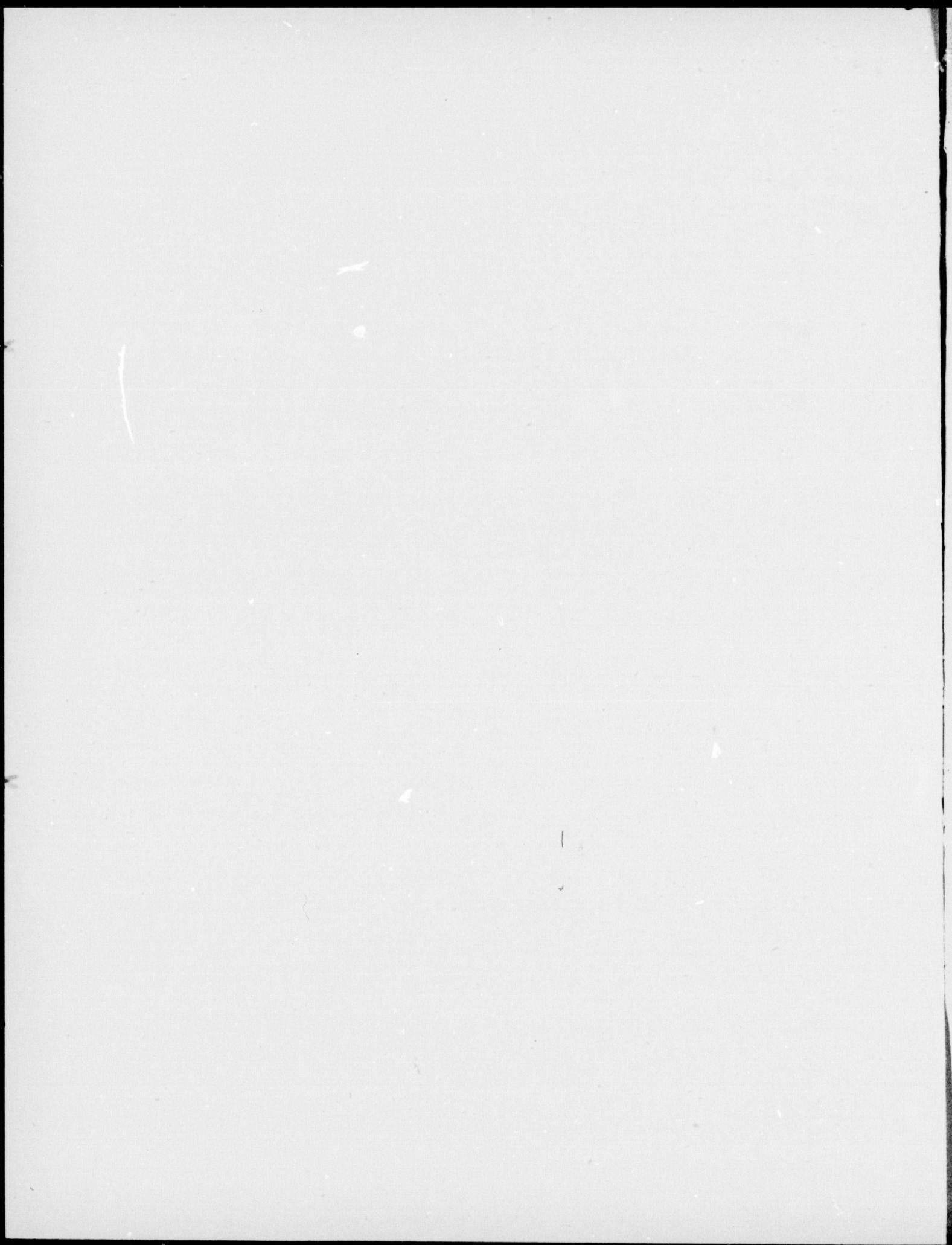
- 1 A. Two special agents with us on that occasion.
- 2 Q. What other name is on that paper?
- 3 A. We have John Callahan and --
- 4 Q. On the bottom of the paper?
- 5 A. That's all -- Linda Oliver's name, I'm sorry.
- 6 Q. How did that name come to appear on that document?
- 7 A. After we prepared it we presented it to her, asked
- 8 her to read it, asked her if she understood it, she
- 9 said yes. We asked if we still had her consent, she
- 10 said yes, and she indicated so by signing this.
- 11 Q. Mr. Bonney, while you were at that residence did you
- 12 have occasion to speak with the defendant, Kenneth
- 13 Oliver?
- 14 A. Yes, I did.
- 15 Q. Is the individual you spoke to that day in the court-
- 16 room this afternoon?
- 17 A. Yes.
- 18 THE COURT: Oliver, stand up.
- 19 THE WITNESS: That is the gentleman standing.
- 20
- 21 BY MR. BURNS:
- 22 Q. Would you relate the circumstances surrounding your
- 23 interview with him?
- 24 A. Yes. After a search of the car some money was found
- 25 in money wrappers from the bank in question, and we
- 26 went back to Linda Oliver and asked her if her husband
- 27 was in the house, and she denied it at first, and

## Excerpt of Testimony—Lawrence Bonney.

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- 1 A. That is right.
- 2 Q. So rather than sit down and write out this nice little
- 3 document, you could have called downtown and had some-
- 4 one procure a search warrant, could you not, nothing
- 5 would have happened, would it?
- 6 A. If she had refused the consent search, that probably
- 7 would have been the procedure. Since she willingly
- 8 provided a consent search, there was no need for that.
- 9 Q. That is your conclusion, is it not, that she willingly
- 10 provided this to you, right?
- 11 A. She willingly provided it. She stated she understood
- 12 and she was willing for us to make a search, unequivocally,
- 13 there was no hesitation.
- 14 Q. But she was very nervous?
- 15 A. Like you said, six FBI agents would make her nervous.
- 16 Q. It is your feeling, sir, that she was completely
- 17 willing to give this consent search, even though you
- 18 observed her being visibly shaken?
- 19 A. Absolutely.
- 20 Q. That is what the document says anyway, right, Exhibit
- 21 1?
- 22 A. That is what we have to go by.
- 23 Q. What we have to go by, I think, even more than the
- 24 document is your recollection of what the situation
- 25 was.
- 26 A. She read the document.
- 27 Q. Let me ask you this. Do you know where Linda Oliver





State of New York ) RE: U. S. A.  
County of Genesee ) ss.: v  
City of Batavia ) Kenneth E. Oliver  
Docket No. 74-2412

On the 4 day of February, 19 75  
I mailed 3 copies of a printed Brief and PH Appendix  
the above case, in a sealed, postpaid wrapper, to:

Buffalo, New York 14202

Richard J. Arcara, U. S. Attorney

502 U. S. Courthouse, Buffalo, New York 14202

4 day of February, 1975

Monica Shaw

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